



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DIRK PAUL,  
Appellant,  
vs.  
VALERIE PAUL,  
Respondent.

No. 89845-COA

*ORDER AFFIRMING IN PART, REVERSING IN PART, DISMISSING  
IN PART AND REMANDING*

Dirk Paul appeals from a decree of divorce. Eighth Judicial District Court, Family Division, Clark County; Bill Henderson, Judge.

Dirk and respondent Valerie Paul were married in July 2017 and have two minor children. Dirk filed a complaint for divorce in March 2022; Valerie answered and counterclaimed for divorce as well. Prior to trial, the parties reached an agreement as to matters of custody, child support, and alimony. Thereafter, the district court conducted a trial to distribute community property and assess child support arrears accrued during the pending proceedings. During the trial Dirk, Valerie, and Dirk's mother testified. The testimony and evidence focused on the character and source of funds Dirk withdrew from accounts after the separation, the ownership of a vehicle Dirk drove after the separation, the amount of child support arrears, and whether the arrears could be offset by daycare payments made during the pendency of the proceedings.

The district court entered a divorce decree in November 2024. The court found that Dirk possessed more of the parties' community property and, therefore, Valerie was entitled to an equalization payment in the amount of \$105,414. This conclusion was based on the court crediting

Dirk with, among other property and funds, \$100,000 which had been withdrawn from a Wells Fargo account after the parties separated. The court also found that Dirk owed \$16,745 in child support arrears which it reduced to judgment. The decree also provided that Dirk continue to pay \$1,000 per month in child support based on the parties' stipulation. The district court also indicated that it would later enter an order awarding attorney fees to Valerie and directed Valerie's counsel to submit additional information concerning that issue. This appeal followed.

On appeal, Dirk first contends that the district court erred in ordering the equalization payment of \$105,414. He maintains that he established that the money he withdrew from Wells Fargo was used to pay a community debt to his mother and grandmother, which he borrowed to acquire or renovate the marital home. Dirk also contends that Valerie did not disclose any bank statements, that he had to pay additional mortgage payments to maintain the marital home after the separation, and that the portion of the equalization payment attributed to child support arrears was improper because the district court did not make findings regarding offsets for the child support payments. Dirk maintains in his reply that, at a minimum, he was entitled to half of the equalization amount he was directed to pay to Valerie as that payment resulted in an unequal distribution of the community funds, but the court did not make sufficient findings for an unequal distribution.

A district court's determination of the character of property will be upheld if it is based on substantial evidence. *Waldman v. Maini*, 124 Nev. 1121, 1128, 195 P.3d 850, 855 (2008). With limited exceptions, all property acquired after marriage by either or both spouses is community property. NRS 123.220. "[T]he spouse claiming such property as their

separate property must prove their interest by clear and convincing evidence.” *Draskovich v. Draskovich*, 140 Nev. 161, 163, 545 P.3d 96, 99 (2024).

To the extent that the equalization payment is based on the district court’s finding that the \$100,000 Dirk withdrew from the Wells Fargo account constituted community property, the district court’s finding is supported by substantial evidence. Dirk did not substantiate his assertions below with documentation for the loan or the initial disbursement. While both Dirk and his mother testified about the loan, the district court found their testimony was not credible and this finding is supported by the record. *See Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 365-66, 212 P.3d 1068, 1080 (2009) (explaining this court is not at liberty to reweigh the evidence or the district court’s credibility determinations). Dirk and his mother’s testimony differed concerning how and when she provided the purported loan. Dirk’s testimony was further inconsistent regarding how the loan was disbursed, how the loan was used, and when the payments were made. Dirk did not introduce records to show that the funds had been used to close on the marital home or substantiate his assertions as to the cost of renovations and repairs to the home. Additionally, Valerie disputed Dirk’s testimony as she insisted that she used funds from an investment account for the down payment on the home and insisted that they both funded the repairs and renovation to the home. Lastly, Dirk’s testimony was evasive and inconsistent on other property matters as well.

Moreover, Dirk’s remaining contentions do not alter this conclusion. Dirk does not identify what bank statements Valerie failed to disclose or explain how the statements would affect the equalization

determination. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that appellate courts need not consider issues that are not supported by cogent argument). Contrary to Dirk's contention on appeal, the district court considered the payments he made on the marital residence and credited him with the \$4,000 to which he stipulated. *See Gottwals v. Rencher*, 60 Nev. 35, 98 P.2d 481, 484 (1940) (providing that stipulations take the place of evidence in establishing facts).

As to the child support arrears, the record does not indicate that the arrears were included in the equalization amount but were instead a separate award. Further, according to the record, the district court considered Dirk's arguments asserting that the support should have been offset and expressly found that the original order did not contemplate, nor did Valerie understand, that payments to the children's daycare provider could be used to offset Dirk's child support obligation. *See* NRS 125B.140(1)(a) (stating that a child support order "may not be retroactively modified or adjusted"); *Khaldy v. Khaldy*, 111 Nev. 374, 377, 892 P.2d 584, 586 (1995) ("Nevada case law clearly prohibits retroactive modification of a support order.").

Accordingly, the district court did not abuse its discretion in concluding that the \$100,000 withdrawn after the separation constituted community property that was not used to repay a community debt to Dirk's mother and grandmother. *See Todkill v. Todkill*, 88 Nev. 231, 236, 495 P.2d 629, 632 (1972) (providing that it is for the district court to determine whether the evidence offered to overcome the community property presumption is clear and convincing).

Although the record supports the district court's conclusion that the \$100,000 constituted community property and was not encumbered by

a corresponding loan, the court's decision to award Valerie \$105,414 as equalization is not supported by the record. Generally, a court must make an equal disposition of community assets and debt in a divorce unless there is a "compelling reason" to make an unequal disposition. NRS 125.150(1)(b); *see also Kogod v. Cioffi-Kogod*, 135 Nev. 64, 75, 439 P.3d 397, 406 (2019).

Here, the district court attempted to equalize the distribution of the marital community's assets by directing Dirk to pay Valerie the difference between the value of the community property in each party's possession. However, as noted by Dirk on appeal, the court's decision actually resulted in Valerie receiving more of the parties' community property than Dirk, as the court did not actually provide each party with half of the community funds. While the district court could make an unequal distribution of community property between the parties, it was required to make factual findings to support its decision before Valerie was given a greater distribution of community funds. *See Holguin v. Holguin*, No. 81373, 2021 WL 3140576, at \*1 (Nev. July 23, 2021) (Order Affirming in Part, Reversing in Part and Remanding) (stating that a district court is required to make factual findings when its final division is not an equal distribution of property); *cf.* NRS 125.150(1)(b) (requiring a compelling reason and written findings when a district court makes an unequal disposition of community property). The decree did not expressly find that Dirk dissipated community property or otherwise behaved in a manner to warrant an unequal distribution. *See Kogod*, 135 Nev. at 75-76, 439 P.3d at 406-07 (providing that dissipation of community property can constitute a compelling reason for an unequal distribution); *see also Lofgren v. Lofgren*, 112 Nev. 1282, 1283, 926 P.2d 296, 297 (1996) ("[I]f community property is

lost, expended or destroyed through the intentional misconduct of one spouse, the court may consider such misconduct as a compelling reason for making an unequal disposition of community property and may appropriately augment the other spouse's share of the remaining community property.”). Without such findings, we cannot conclude that the district court properly exercised its discretion in awarding Valerie a larger share of the community property. *See Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142 (2015) (explaining appellate courts do not defer “to legal error or to findings so conclusory they may mask legal error” (internal citations omitted)). Accordingly, we reverse the community property award and remand to the district court to either make an equal distribution of community property or set forth sufficient reasons for an unequal distribution.

Next, Dirk argues that the district court erred in ordering him to pay \$1,000 per month in child support. The parties represented that they agreed on the post-decree child support amount before trial, accordingly, the court did not address the issue of child support at trial. Thus, we conclude that Dirk has forfeited these arguments on appeal by failing to raise them before the district court. *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (stating “[a] point not urged in the trial court, unless it goes to the jurisdiction of that court,” is forfeited). To the extent Dirk wishes to change the support obligation, he must first seek to modify it before the district court.

Lastly, Dirk contends that the district court erred in awarding attorney fees to Valerie. Dirk also challenges the provision of the decree awarding Valerie \$37,500 in attorney fees and costs. However, this issue is not properly before us in this appeal, as the decree and appellate record

indicated that the court has yet to issue an order awarding attorney fees to Valerie. Rather, the court directed Valerie to submit a proposed order containing information concerning the factors set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 329, 455 P.2d 31, 33 (1969), and how Dirk's actions supported an award of attorney fees. But the final order awarding fees was not entered before Dirk filed the notice of appeal. As no final or separate order on a reasonable fee amount has been issued in this matter, no final determination of the amount of attorney fees exists for this court to review. *See Rennels v. Rennels*, 127 Nev. 564, 569, 257 P.3d 396, 399 (2011) (providing that a final order "disposes of the issues presented" leaving "nothing for the future consideration of the court" (internal quotation marks omitted)); *see also Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 346-47, 301 P.3d 850, 852-53 (2013) (explaining that only an order "finally and completely" resolving a claim is appealable).

Because the decree did not constitute a final order as to the amount of fees awarded to Valerie, and a post-judgment order awarding fees is independently appealable as a special order after final judgment, we lack jurisdiction to consider Dirk's contentions concerning this issue. *See Smith v. Crown Fin. Servs.*, 111 Nev. 277, 280 n.2, 890 P.2d 769, 771 n.2 (1995); *see also Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (holding that a post-judgment order on fees or costs "may be appealed as a special order made after final judgment"). Thus, to the extent that Dirk challenges the district court's indication that it intended to later award attorney fees to Valerie, such a challenge is not yet ripe and therefore we dismiss this part of the appeal without prejudice.

Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART, REVERSED IN PART, DISMISS the appeal in part without prejudice, AND REMAND this matter to the district court for proceedings consistent with this order.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Bill Henderson, District Judge, Family Division  
Dirk Paul  
Mills & Anderson Law Group  
Eighth District Court Clerk