

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES CHARLES KLINE,  
Appellant,  
vs.  
YVONNE JENSEN KLINE,  
Respondent.

No. 39447

**FILED**

SEP 03 2004

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER AFFIRMING IN PART AND REVERSING IN PART AND  
REMANDING

This appeal is taken from a final divorce decree. Third Judicial District Court, Churchill County; Robert E. Estes, Judge.

After nearly ten years of marriage, respondent Yvonne Kline filed for divorce from appellant James Kline. The parties did not have any children during the marriage.

Prior to the marriage, Yvonne owned a house in Tonopah, a lot at Frenchman's Lake, and a Dreyfus annuity account. During the marriage, she sold the Tonopah property and purchased a Chevrolet Blazer with some of the proceeds.

Before the trial, James sought prospective fees for a forensic accounting to determine the community assets, which the district court denied. At trial, James also sought alimony and attorney fees, which the district court denied.

Upon entering the divorce decree, the district court determined that the Tonopah property sale proceeds, Frenchman's Lake property, Chevrolet Blazer, and Dreyfus annuity account were Yvonne's separate property.

On appeal, James challenges the district court's: (1) denial of his request for prospective fees for a forensic accounting; (2) determination

that the Tonopah property, Frenchman's Lake property, Chevrolet Blazer, and Dreyfus annuity account were Yvonne's separate property; (3) denial of his claimed community interest in \$88,000.00 that Yvonne allegedly removed from the parties' joint account; and (4) denial of his request for alimony and attorney fees.

This court reviews district court decisions concerning divorce proceedings for an abuse of discretion.<sup>1</sup> Findings supported by substantial evidence will not be disturbed on appeal.<sup>2</sup> Substantial evidence is that evidence which a reasonable mind might accept as adequate to support a conclusion.<sup>3</sup>

With one exception, we conclude that substantial evidence supports the district court's findings and determinations. Yvonne paid \$8,509.00 in capital gains tax for the sale of the Tonopah property, which was her separate property, from their joint account. The district court abused its discretion in not awarding James a community interest in such funds. Accordingly, we affirm the judgment in part, reverse it in part, and remand this matter to the district court with instructions to award James a community interest in the amount withdrawn to cover the capital gains tax.

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<sup>1</sup>Shydler v. Shydler, 114 Nev. 192, 196, 954 P.2d 37, 39 (1998).

<sup>2</sup>Id.

<sup>3</sup>Schmanski v. Schmanski, 115 Nev. 247, 251, 984 P.2d 752, 755 (1999).

It is so ORDERED.

Becker, J.  
Becker

Agosti, J.  
Agosti

Gibbons, J.  
Gibbons

cc: Hon. Robert E. Estes, District Judge  
Jeffrey Friedman  
James F. Sloan  
Churchill County Clerk