COURT OF APPEALS
OF THE
SHAKOPEE MDEWAKANTON SIOUX COMMUNITY

SMSC RESERVATION STATE OF MINNESOTA

In re the Marriage of:

Morgan A. Crooks,

Appellant,

vs.

Morgan N. Crooks,

Respondent.

Trial Court File No. 975-22
Court of Appeals File No. CTAPP056-23

Opinion and Order

Before HOGEN, MASON MOORE, and ADAMS, Appellate Judges.

Introduction

In this appeal from a dissolution judgment and decree, Appellant-Husband argues that the trial court (1) abused its discretion by awarding sole legal and physical custody of the parties' minor child to Respondent-Wife, (2) abused its discretion by requiring Appellant-Husband's parenting time to be supervised, (3) erred in calculating Appellant-Husband's child-support obligation, (4) abused its discretion in dividing property between the parties, (5) made clearly erroneous findings of fact regarding a witness's testimony, and (6) abused its discretion by excluding video and text-message

evidence that Appellant-Husband offered at trial.

We agree in part with Appellant-Husband's arguments on the issues of custody and parenting time, and therefore, we reverse and remand for the trial court to issue further findings of fact. We affirm the trial court's decision in all other respects.

Background

Appellant Morgan A. Crooks ("Husband") is a member of the Shakopee Mdewakanton Sioux Community (the "Community").[1] Respondent Morgan N. Crooks ("Wife") has no Tribal affiliation.[2] They married in August 2018.[3]

Husband and Wife separated in May 2022.[4] On July 4, 2022, Wife gave birth to the parties' joint child, [redacted] Later that month, Husband filed petitions for dissolution and a hearing on paternity, custody, visitation, and support for the joint child in the Community's trial court.[6] The trial court consolidated the two case files into one action.[7]

As relevant to the issues on appeal, the parties filed several pretrial motions. In September 2022, Husband filed an emergency motion requesting temporary parenting time with the joint child for two overnights every weekend.[8] Wife opposed Husband's

---

[1] Pet. for Dissolution at 1 (July 29, 2022).
[2] *Id.*
[3] *Id.*
[4] Tr. at 39:10-12; 178:4-5 (Apr. 20, 2023).
[5] *Id.* at 35:12-13.
[6] Pet. for Hearing at 1 (July 20, 2022); Pet. for Dissolution at 1.
[7] Order Consolidating Cases at 1 (Aug. 31, 2022).
[8] Emergency Mot. at 1 (Sept. 27, 2022).

motion and requested that he be awarded supervised parenting time for two hours twice per week.[9] Wife also requested that she be awarded $2,000 per month in child support from Husband.[10] In November 2022, the Trial Court issued an order denying Husband's emergency motion in its entirety, granting Wife's motion for supervised parenting time, and reserving the issue of child support.[11] In February 2023, both parties filed further motions regarding parenting time, child support, and property division.[12] The court denied these motions.[13]

The trial court held a dissolution trial on April 20, 2023.[14] It then issued a dissolution judgment and decree dissolving the parties' marriage, granting Wife sole physical and legal custody of [redacted] and granting Husband twice-weekly supervised parenting time.[15] The trial court ordered Husband to pay Wife $26,256.06 in child support for July 2022 through June 2023 and $2,110.65 per month in ongoing child support beginning in July 2023.[16]

The trial court awarded to Wife half the proceeds from the sale of a 2018 Jeep

---

[9] R.'s Counter Mot. at 1 (Oct. 5, 2022).
[10] *Id.* at 2.
[11] Order at 4-5 (Nov. 4, 2022).
[12] *See* R.'s Mot. at 1 (Feb. 8, 2023); Pet.'s Mot. and Responsive Mot. at 1-2 (Feb. 28, 2023).
[13] Order at 4 (Mar. 8, 2023).
[14] Tr. at 1.
[15] Dissolution Judgment & Decree at 11-12 (June 9, 2023).
[16] *Id.* at 12.

Grand Cherokee that Wife used during the marriage.[17] It further ordered an equal division of the tax refund from the parties' 2022 joint tax return.[18] Finally, the trial court made findings allocating the parties' separate and marital debts and ordered that the marital debt be shared equally between the parties.[19]

Husband filed a timely appeal from the judgment and decree.[20]

Discussion

I. The trial court abused its discretion by awarding sole legal and physical custody of the minor child to Wife without addressing all relevant best-interest factors under Chapter III, Section 2(a) of the Community's Domestic Relations Code.

Husband first argues that we must reverse the trial court's custody award because the trial court based its decision on clearly erroneous findings of fact and erred as a matter of law by failing to analyze all relevant best-interest factors under Chapter III, Section 2(a) of the Community's Domestic Relations Code.[21]

The trial court has broad discretion in determining custody and parenting-time awards, and we review its determinations for an abuse of discretion.[22] In this context, the trial court abuses its discretion if it does not consider a relevant factor that should

---

[17] *Id.* at 13.
[18] *Id.*
[19] *Id.* at 11, 14.
[20] Notice of Appeal at 1 (July 3, 2023).
[21] A. Br. at 12-29.
[22] *Nguyen v. Gustafson*, 4 Shak A.C. 1, 16 (Jan. 23, 2020).

have been given significant weight, if it considers and gives significant weight to an irrelevant or improper factor, or if it commits a clear error of judgment in weighing the factors that contribute to its decision.[23]

Chapter III, Section 2(a) of the Community's Domestic Relations Code states that the trial court "shall determine custody . . . in accordance with the best interests of the child," and it provides that the trial court "shall consider all relevant factors including, but not limited to," the 16 factors enumerated within the section:

> (1) the capacity and willingness of each parent to ensure that the child receives adequate care, including but not limited to providing food, clothing, shelter, medical care, and a safe living environment. A safe living environment means an environment free of domestic abuse, substance abuse, maltreatment, and neglect;
>
> (2) the presence or history of domestic abuse by either parent, regardless of whether the abuse was directed against or witnessed by the child;
>
> (3) the capacity and willingness of each parent to follow visitation and custody orders;
>
> (4) the quality of the relationship between the child and each parent and the capacity and willingness of the parent to provide love, affection, guidance, and to continue educating and raising the child in the child's culture;
>
> (5) the capacity and willingness of each parent to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent, the capacity and willingness of each parent to keep the other

[23] *Id.*

parent informed on matters regarding the child, the capacity and willingness of the parents to place the needs of the child first and the ability to cooperate with one another for the sake of the child;

(6) each parent's maturity and capacity and willingness to avoid conflict with one another;

(7) the parenting skills of both parents and each parent's willingness to accept full parenting responsibilities;

(8) the child's developmental or special needs and the capacity and willingness of each parent to meet those needs, both in the present and in the future;

(9) the interaction and interrelationship of the child with siblings, extended family, or other people who may significantly affect the child's best interests;

(10) the physical, mental, and emotional fitness of the parties involved, including presence or history of controlled substance abuse;

(11) the child's Tribal or cultural background and the Tribal membership/affiliation of the parent or petitioning party if other than the parent;

(12) the capacity and willingness of each parent to encourage school attendance, to be involved in school conferences and activities, and to take responsibility to ensure school work is completed;

(13) the length of time the child has lived in a stable home environment with either or both parents and the desirability of maintaining continuity;

(14) the permanence, as a family unit, of the existing or proposed custodial home;

> (15) the reasonable preference of the child, if the Tribal Court deems the child to be of sufficient age to express preference; and
>
> (16) the wishes of the child's parent or parents as to custody.

The trial court stated in its findings of fact that "some of the factors were neutral as between the parties," but "several factors were paramount" to its decision.[24] It went on to discuss the parties' capacity and willingness to provide adequate care to the joint child, to follow visitation and custody orders, and to provide love and affection to the joint child; the parties' maturity and ability to avoid conflict; the parties' physical, mental, and emotional fitness; the length of time the joint child had lived in a stable home environment; and the permanence, as a family unit, of the custodial home.[25] It is clear from the trial court's language that its findings corresponded to best-interest factors 1, 3, 4, 6, 10, 13, and 14.[26]

Husband argues that the phrase "shall consider all relevant factors" in the Domestic Relations Code requires the trial court to analyze every best-interest factor explicitly, and as such, it erred as a matter of law by failing to address every factor in its judgment and decree.[27] Conversely, Wife argues that the trial court must acknowledge that it considered all relevant best-interest factors but need not make individualized

---

[24] Judgment & Decree at 4, ¶ 18.
[25] *Id.* at 4-6, ¶ 18(a)-(g).
[26] *See* SMS(D)C Domestic Relations Code Ch. III, § 2(a)(1), (3), (4), (6), (10), (13), (14).
[27] A. Br. at 14.

findings on each factor.[28]

The Domestic Relations Code is silent as to whether the trial court must articulate its findings on every factor. Neither party argues that a tradition or custom of the Community addresses this issue, and we are not aware of any past decision from the Tribal Court that would control the outcome here. Thus, we must decide an issue of first impression: whether Chapter III, Section 2(a) requires the trial court to make explicit factual findings for each of the best-interest factors in an initial custody determination. In doing so, we may look to Minnesota state law for persuasive authority.[29]

Following a trial, the court's findings of fact "make definite and certain what the issues were and how they were decided."[30] Detailed factual findings are important to appellate review because they provide the appellate court with "a clear understanding of the basis for the [trial court's] decision."[31] Thus, appellate courts generally will remand a case when the trial court's findings of fact are insufficient.[32] Although there

---

[28] R. Br. at 11.

[29] *See* Resolution 11-14-95-003 Jurisdictional Amendment, § V.

[30] *Midway Mobile Home Mart, Inc. v. City of Fridley*, 135 N.W.2d 199, 202 (Minn. 1965).

[31] *Id.*

[32] *See, e.g., Moylan v. Moylan*, 384 N.W.2d 859, 865 (Minn. 1986) (reversing and remanding a child-support modification order where the trial court failed to make express findings of fact on all appropriate factors); *Stich v. Stich*, 435 N.W.2d 52, 53 (Minn. 1989) (reversing and remanding a spousal-maintenance award where the trial court failed to make detailed findings of fact on all relevant factors); *Rogge v. Rogge*,

are some circumstances in which an appellate court may conduct an independent review of the record to find support for a trial court's decision, "such action is improper where . . . it is unclear whether the trial court considered factors expressly mandated by the legislature."[33]

Here, the trial court did not indicate how several relevant best-interest factors weighed into its analysis. We agree with Husband that this was an abuse of discretion.[34] We are particularly concerned about the omission of best-interest factor 9, the interaction and interrelationship of the child with his siblings, and best-interest factor 11, the child and parents' Tribal background.[35]

The record reflects that [redacted] has two siblings who temporarily live in Husband's home with their mother.[36] [redacted] has met and spent time with them during Husband's parenting time.[37] Husband testified that [redacted] and his siblings love each other, and Wife testified that she supported [redacted] continuing a relationship with his siblings.[38]

---

509 N.W.2d 163, 166-67 (Minn. Ct. App. 1993) (remanding a custody-modification order where the trial court failed to address several mandatory factors).

[33] *Moylan*, 384 N.W.2d at 865.
[34] *See Nguyen*, 4 Shak A.C. at 16 (Jan. 23, 2020) ("An abuse of discretion occurs if a relevant factor that should have been given significant weight is not considered . . . .").
[35] *See* SMS(D)C Domestic Relations Code Ch. III, § 2(a)(9), (11).
[36] Tr. at 90:25-91:22; 144:18-145:1.
[37] *Id.* at 92:19-23; 150:14-24.
[38] *Id.* at 93:9; 229:25-230:2.

Furthermore, Husband and [redacted] siblings are all Community members.[39] [redacted] is eligible for enrollment as well.[40] Husband and Wife both indicated it was important to them to teach [redacted] about his culture.[41] Yet the trial court did not discuss this evidence in its findings of fact. It only noted:

> The Code emphasizes the tribal identity and familial relationships for a child's best interest, and the Court believes that the Petitioner values these considerations for the joint minor child. However, the other factors weigh heavily in favor of the Respondent's sole physical custody and sole legal custody of the joint minor child.[42]

Without a more complete analysis of each best-interest factor the trial court considered, we cannot conduct a meaningful review of its decision. We therefore reverse the trial court's custody decision and remand the case for the trial court to issue further findings on all relevant best-interest factors. In doing so, the trial court may rely on the record as it stands; we see no need for it to conduct another evidentiary hearing.

Husband and Wife raise certain issues we wish to address to provide the trial court with guidance on remand. First, Husband argues that the trial court failed to properly analyze the parties' history of domestic abuse under best-interest factor 2.[43] We are not persuaded.

---

[39] *Id.* at 124:3-5, 19-21.
[40] *Id.* at 230:3-6.
[41] *Id.* at 124:9-18, 22-24; 230:7-16.
[42] Judgment & Decree at 6, ¶ 19.
[43] A. Br. at 17; *see* SMS(D)C Domestic Relations Code Ch. III, § 2(a)(2).

The trial court's analysis of best-interest factor 1 included a finding that "[t]here exists a history of documented domestic abuse by [Husband] against [Wife] . . . ."[44] This finding applies equally to best-interest factors 1 and 2. We note that it is best practice for the trial court to articulate and analyze each relevant best-interest factor individually. Nevertheless, we are unlikely to conclude that the trial court abused its discretion where, as in this instance, a finding of fact makes clear that the trial court considered one relevant best-interest factor in conjunction with another. If the record shows that the trial court considered all relevant best-interest factors, the failure to separately articulate each best-interest factor would not warrant reversal.

Second, Husband suggests that the trial court must make findings on every best-interest factor enumerated in Chapter III, Section 2(a), regardless of their relevance to the case at hand. This is apparent in his arguments regarding best-interest factor 8, the child's developmental or special needs; best-interest factor 12, the parties' capacity and willingness to encourage school attendance; and best-interest factor 15, the reasonable preferences of the child.[45] There is no evidence in the record that [redacted] has special needs, and [redacted]s not old enough to attend school or express a preference as to custody. Husband acknowledges as much but argues that the trial court abused its

---

[44] Judgment & Decree at 5, ¶ 18(a)(iii); *see* SMS(D)C Domestic Relations Code Ch. III, § 2(a)(1).

[45] A. Br. at 21-22, 25, 28; *see* SMS(D)C Domestic Relations Code Ch. III, § 2(a)(8), (12), (15).

discretion by failing to address these factors. We disagree.

The Code requires the trial court to consider all *relevant* factors in its analysis of the child's best interest.[46] Thus, the trial court's omission of irrelevant factors is not contrary to the Code's express language. Again, we note that it is best practice for the trial court to state that it found a best-interest factor to be irrelevant. But failure to do so is not an abuse of discretion where, as here, a factor clearly does not apply to the child's present circumstances.

Third, Wife's arguments suggest that the trial court need not specify which best-interest factors it found to be neutral. For example, regarding the parties' wishes as to custody, Wife asserts, "The tribal court did not make specific findings on this factor, however, it logically follows that after the tribal court began its analysis by stating that 'some of the factors were neutral,' . . . it likely found this factor to be neutral at minimum."[47] As an error-correcting court, we cannot make this assumption. It is not appropriate for an appellate court to speculate as to the weight the trial court gave to each factor.

Although the trial court does not abuse its discretion by declining to analyze irrelevant factors, it does abuse its discretion by failing to address relevant factors it found to be neutral. Custody decisions have a significant impact on the parties' lives,

---

[46] SMS(D)C Domestic Relations Code Ch. III, § 2(a).
[47] R. Br. at 34; *see* SMS(D)C Domestic Relations Code Ch. III, § 2(a)(16).

and the trial court's best-interest findings help the parties to understand how it reached its decision. The findings also aid appellate courts in reviewing the weight given to each factor. Therefore, the trial court must explicitly state that it found a factor to be neutral.

II. The trial court abused its discretion by requiring Husband's parenting time to be supervised without making a finding of endangerment under Chapter III, Section 3(a) of the Community's Domestic Relations Code.

Next, Husband challenges the trial court's decision to grant him supervised parenting time. He argues that the trial court abused its discretion by failing to make a finding of endangerment in support of its decision to restrict his parenting time.[48]

The trial court stated in its findings of fact on this issue, "[Wife] proposed supervised visitation twice per week. The Court will honor the proposal of [Wife], as the sole custodian of the joint minor child."[49] It awarded Husband two supervised parenting-time visits per week for two hours per visit, allowing less restrictive visitation at Wife's discretion.[50] A review of the trial court's previous orders reveals that it relied on similar reasoning to require supervised parenting time before trial. It first granted supervised parenting time to Husband in November 2022 after he moved for temporary, unsupervised parenting time. There, the trial court stated:

> [T]he Court has received no compelling evidence that it would be in the best interest of the Child to issue an order that the Child should suddenly live with [Husband] for 48 hours per week while

---

[48] A. Br. at 29-32.
[49] Judgment & Decree at 7, ¶ 20.
[50] *Id.* at 12, ¶ 4.

> this action proceeds and a final custody determination is made. [Wife] has offered [Husband] supervised visits with the Child that will allow [Husband] and the Child to meet and get to know one another gradually, perhaps building up to the relationship and the custody determination that [Husband] desires.[51]

Husband moved for unsupervised parenting time again in February 2023. The trial court denied the motion because it was filed after the deadline provided in the scheduling order.[52]

As we previously noted, we apply the abuse-of-discretion standard to the trial court's parenting-time decisions.[53] Under this standard, we review the trial court's findings of fact for clear error and its conclusions of law *de novo*.[54]

Chapter III, Section 3(a) of the Community's Domestic Relations Code governs the restriction of a noncustodial parent's visitation:

> If the Tribal Court finds, after a hearing, that visitation is likely to endanger the child's physical or emotional health or impair the child's emotional development, the Tribal Court shall restrict visitation by the noncustodial parent as to time, place, duration, or supervision and may deny visitation entirely, as the circumstances warrant.

Husband contends that this section requires the court to make a finding of endangerment before it imposes supervision or other restrictions on parenting time.[55]

---

[51] Order at 4 (Nov. 4, 2022).
[52] Order at 4 (Mar. 8, 2023).
[53] *Nguyen*, 4 Shak A.C. at 16.
[54] *Johnson v. Brooks-Johnson*, 4 Shak. A.C. 62, 66 (Oct. 16, 2023).
[55] A. Br. at 29-30.

He argues that the trial court's decision must be reversed because the trial court did not make an endangerment finding and the record does not support such a finding.[56] Wife disagrees, arguing that the trial court's analysis of several best-interest factors in its custody findings were sufficient to establish endangerment.[57]

We conclude that Husband's argument merits relief. The trial court never found that unsupervised parenting time would endanger K.J.C.; rather, it explicitly based its parenting-time award on Wife's proposed schedule. While Wife is correct that several of the trial court's custody findings would be relevant to the issues of parenting time and endangerment, the trial court did not state that these findings established endangerment, incorporate the custody findings into its parenting-time analysis, or indicate that it considered the custody findings when determining the parenting-time award. We cannot reweigh the evidence ourselves, nor can we assume that the trial court found endangerment where it does not explicitly state so. We therefore reverse the trial court's parenting-time award and remand the case for the trial court to issue findings on the issue of endangerment.[58]

III. The trial court did not err in determining Husband's child-support obligation.

---

[56] *Id.* at 30-32.

[57] R. Br. at 35-36.

[58] We do not disturb the existing parent-time schedule, but urge the trial court to quickly address the endangerment issue so that if there is no finding of endangerment, Husband's parenting time can be adjusted.

Next, Husband argues that the trial court erred by failing to impute income to Wife in its guidelines child-support calculation, by awarding retroactive child support to Wife, and by adjusting the child-support award for inflation.[59] We address each argument in turn.

A. The trial court did not err by failing to impute income to Wife.

Husband first argues that the trial court erred by failing to impute income to Wife for the purposes of its guidelines child-support calculation.[60] He contends that this error requires us to reverse and remand for the trial court to impute potential income to Wife and recalculate its child-support award.[61] We disagree.

A trial court's determination of income is a finding of fact that appellate courts review for clear error.[62] Findings of fact are clearly erroneous if they are "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a

---

[59] A. Br. at 32-37.
[60] *Id.* at 32-34.
[61] *Id.* at 34.
[62] *Newstrand v. Arend*, 869 N.W.2d 681, 685 (Minn. Ct. App. 2015).

whole."[63] We will defer to the trial court's findings of fact unless we have a "definite and firm conviction that a mistake has been made."[64]

The Community's Domestic Relations Code contains a rebuttable presumption that a parent can be employed full-time for the purposes of calculating child support.[65] Furthermore, this provision requires the court to impute potential income to a custodial parent who is "voluntarily unemployed, underemployed, or employed less than full time."[66] The court must not, however, impute income to a parent who stays at home to provide for the joint child.[67]

Here, the trial court found that Wife's net income for July 2022 to June 2023 was $0 per month.[68] Wife testified that she was not working, was a stay-at-home mother to [redacted] and relied on SNAP, WIC, and help from her mother to meet her living expenses during the divorce proceedings.[69] The evidence reasonably supports the trial court's finding on Wife's income, and therefore, it was not clearly erroneous. The record also reflects that Wife was a stay-at-home parent during this period, so the trial court

---

[63] *Brooks v. Corwin*, 2 Shak. A.C. 5, 6 (Aug. 4, 2008).
[64] *Id.* (quotation omitted).
[65] SMS(D)C Domestic Relations Code Ch. II, § 7(c)(1).
[66] *Id.*
[67] *Id.* at § 7(c)(1)(iv).
[68] Judgment & Decree at 8.
[69] Tr. at 237:13-15, 240:21-24.

complied with the Domestic Relations Code by declining to impute potential income to her.[70]

The trial court found that Wife's projected net income for July 2023 onward was $1,245 per month.[71] This finding was based on Wife's testimony regarding a Certified Peer Recovery Specialist position that would begin after the dissolution trial.[72] Again, this finding was supported by the record and was not clearly erroneous.

Wife testified that the part-time, remote position would allow her to avoid the cost of childcare.[73] For all practical purposes, this means that Wife will remain a full-time stay-at-home mother while also earning income through part-time employment. As such, the Code precludes the trial court from imputing potential income to Wife until the circumstances change.

B. The trial court did not err by awarding retroactive child support to Wife.

Husband claims that the Community's Domestic Relations Code does not provide for retroactive awards of child support.[74] He relies on the Code's child-support modification provision to argue that child support may only be awarded from the date the petitioning party serves notice on the other party, and thus, the trial court erred by

---

[70] *See* SMS(D)C Domestic Relations Code Ch. II, § 7(c)(1)(iv).
[71] Judgment & Decree at 8.
[72] Tr. at 237:18-240:3.
[73] *Id.* at 239:19, 240:5-14.
[74] A. Br. at 34.

awarding child support prior to October 5, 2022, the date of Wife's first request for child support.[75] We are not persuaded.

The Community's Domestic Relations Code does not address whether an initial award of child support may be made retroactive to the date of the child's birth. But Minnesota law provides persuasive authority on this issue. The Minnesota Supreme Court affirmed that "a parent's obligation to support his child commences with the child's birth."[76] Subsequent caselaw has established that courts may award retroactive child support as part of a final dissolution order, and courts may order child support retroactive to the date of the parents' separation.[77] Husband does not provide any authority from the Community or the State that contradicts these principles. We therefore conclude that the trial court did not err in awarding child support retroactive to the child's birth.

C. The trial court did not err by adjusting the child-support award for inflation.

The trial court noted its past practice to adjust the guidelines child-support amounts for inflation, and it did so in this case.[78] Husband argues that the trial court erred because the Domestic Relations Code does not authorize this adjustment as an

---

[75] *Id.* at 34-35; *see* SMS(D)C Domestic Relations Code Ch. II, § 7(l)(3).
[76] *Jacobs v. Jacobs*, 309 N.W.2d 303, 305 (Minn. 1981).
[77] *See In re Support of J.M.K.*, 507 N.W.2d 459, 461 (Minn. Ct. App. 1993); *Korf v. Korf*, 553 N.W.2d 706, 710-11 (Minn. Ct. App. 1996).
[78] Judgment & Decree at 8, 12.

upward departure or as a cost-of-living adjustment.[79] We disagree; the trial court's practice of adjusting for inflation does not constitute an upward departure and is in line with the principles of equity and fairness that underlie cost-of-living adjustments.

Child-support awards are calculated using the guidelines matrix in Chapter II of the Code.[80] The Code provides for biennial, compounded cost-of-living adjustments to be applied to the non-custodial parent's adjusted child-support obligation.[81] These adjustments are based on a change in the cost of living as determined by the Bureau of Labor Statistics.[82] The cost-of-living provision does not explicitly state whether the court may apply such adjustments to an initial child-support award, so we turn to the canons of statutory interpretation to resolve this issue.

Statutory interpretation is a question of law we review *de novo*.[83] "The object of all statutory interpretation is to ascertain and effectuate the intention of the Legislature."[84] In doing so, we first examine whether the statutory language is "clear and free from all ambiguity."[85] If the statute is unambiguous, we "decline to explore its spirit or

---

[79] A. Br. at 35-37; *see* SMS(D)C Domestic Relations Code Ch. II, § 7(i)-(k).
[80] SMS(D)C Domestic Relations Code Ch. II, § 7(d).
[81] *Id.* at § 7(k).
[82] *Id.*
[83] *See Stopp v. LSI*, 1 Shak. A.C. 29, 30 (Jan. 29, 1996) (reviewing the trial court's interpretation of law *de novo*).
[84] *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016).
[85] *Id.*

purpose" and instead apply its plain language.[86] Conversely, we must look beyond the plain language of the statute when its meaning is ambiguous and a literal interpretation "leads to absurd results or unreasonable results which utterly depart from the purpose of the statute."[87]

The last time the General Council amended the child-support matrix was in February 2016.[88] Since then, the cost of living has continued to rise dramatically without further amendment to the guidelines matrix. Children who are subject to child-support proceedings in 2023 should receive a comparable level of support to children who were subject to child-support proceedings in previous years that are automatically adjusted for inflation biennially. The only way for the trial court to ensure this level of support is to continue its practice of adjusting the guidelines child-support amount for inflation.

Although this practice is not explicitly contemplated in the cost-of-living provision, a strict interpretation of its terms would lead to an unreasonable result that deviates from the General Council's clear intent to ensure that child-support awards remain reasonable and fair as the cost of living increases over time. Therefore, we conclude that the Code must be interpreted to allow the trial court to account for cost-of-living adjustments from the guidelines matrix in its initial child-support awards.

---

[86] *Id.*

[87] *Wegener v. Comm'r of Revenue*, 505 N.W.2d 612, 617 (Minn. 1993).

[88] *See* General Council Resolution No. 11-10-15-002.

Such adjustments are not upward departures of the type the Code prohibits and are consistent with the best interests of the children under our jurisdiction.

IV. The trial court did not abuse its discretion in dividing the parties' property.

Next, Husband challenges the trial court's decisions regarding the division of property between Husband and Wife. He first argues that the trial court abused its discretion by dividing two sums equally between the parties: the proceeds from the sale of a Jeep Grand Cherokee and the refund from the parties' 2022 joint tax return.[89] Husband primarily relies on Chapter II, Section 5 of the Domestic Relations Code, which governs the division of property in dissolution proceedings. This section provides that per-capita payments are the separate property of a Tribal Member and are not marital property.[90] Husband appears to argue that the vehicle-sale proceeds and tax refund should be considered his separate property because he purchased the vehicle and paid taxes with his per-capita income.[91]

The trial court has "broad discretion in evaluating and dividing property in a marital dissolution," and we review its decision for an abuse of that discretion.[92] We

---

[89] A. Br. at 37-39; *see* Judgment & Decree at 10, ¶ 36, 11, ¶ 40, 13, ¶¶ 10, 15.
[90] SMS(D)C Domestic Relations Code Ch. II, § 5(b), (h).
[91] A. Br. at 37-39.
[92] *Stade-Lieske v. Lieske*, 3 Shak. A.C. 10, 14 (June 8, 2015) (quotation omitted).

conclude that our past precedent is dispositive of this issue and hold that the trial court did not abuse its discretion.

In *Stade-Lieske v. Lieske,* the trial court awarded several vehicles to a Community-member spouse because she purchased the vehicles with her per-capita income.[93] There, we concluded that this award was not an abuse of the trial court's discretion, but we stated in our holding:

> Although the Trial Court is correct that per-capita payments are the separate property of the member under the Code and *Welch* [*v. Welch,* 2 Shak. A.C. 11, 19 (Apr. 15, 2009)], that does not mean that anything purchased with per-capita payments during the marriage is separate property. Just as we held in *Welch* that maintenance could be awarded out of per-capita payments, we hold that property purchased with a member's per-capita payments is marital property and can be awarded to the non-member spouse.[94]

We apply the same reasoning here—the fact that Husband purchased the Jeep and paid taxes with his per-capita income does not mean that the proceeds from the Jeep sale or the refund from the parties' joint tax return are Husband's separate property. Therefore, the trial court did not abuse its discretion by finding that these amounts were marital property and awarding half of each sum to Wife.

Husband also challenges the trial court's decision to allocate certain debts to him. He argues that the debts allocated to him as separate debts were actually marital debts

---

[93] *Id.* at 27.
[94] *Id.* at 28.

that should have been divided between the parties.[95] He further contends that the trial court did not make appropriate findings to support its allocation of half the marital debt to Husband.[96]

The Domestic Relations Code provides that the parties' marital property is liable for the debts contracted during the marriage by either spouse.[97] The trial court must divide marital property, including debts, equitably upon dissolution.[98] Equitable division of property "provide[s] for a fair, but not necessarily equal, allocation of the property between the spouses" in a dissolution proceeding.[99]

Here, the trial court effectuated an equitable division of the parties' debts by allocating most of the debts to Husband. Husband testified that these debts were the result of a personal judgment against him and personal loans that he took out and paid with his per-capita income.[100] As an initial matter, the trial court correctly identified that the personal judgment against Husband was separate debt. The judgment was entered in June 2017, before the parties' marriage.[101] As for the personal loans, Wife testified that she was not involved in Husband's decision to take out these loans and her income was

---

[95] A. Br. at 40-41.
[96] *Id.* at 41-42.
[97] SMS(D)C Domestic Relations Code Ch. II, § 5(b).
[98] *Id.* at § 5(c).
[99] *Equitable distribution*, Black's Law Dictionary (11th ed. 2019).
[100] Tr. at 46:13-16, 47:3-5, 48:3-5.
[101] *See* Pet. Ex. 13.

not considered in the loan applications.[102] Although the parties were married at the time that Husband accrued this debt, it would be unfair for Wife to take on an equal amount of these debts because she did not participate in the decision-making process, earned little to no income at the time the loans were taken out, and still earns significantly less than Husband at present. As such, we conclude that the trial court did not abuse its discretion in allocating these debts to Husband.

Conversely, Wife's mother K.A. testified that she loaned money to both parties during their marriage.[103] She testified that Husband and Wife owed her $6,000 before [redacted] birth.[104] In this situation, it is clear that both parties were involved in borrowing money from K.A., and both parties should be responsible for paying back this amount. The record supports the trial court's finding as to the amount of this debt and the parties' equal responsibility for it, and thus, the trial court did not abuse its discretion in allocating this debt between the parties.

V. Any error in the trial court's findings of fact regarding witness B.F.'s testimony was harmless.

Next, Husband argues that the trial court's finding of fact regarding witness B.F.'s testimony was clearly erroneous.[105] B.F. is the mother of Husband's nonjoint

---

[102] Tr. at 246:2-11.
[103] *Id.* at 293:25-294:5.
[104] *Id.* at 298:17-18.
[105] A.Br. at 42-43.

children, and most of her testimony related to her coparenting relationship with Husband, Husband's parenting abilities, and her opinions regarding Husband's visitation with [redacted].[106] B.F. described her current relationship with Husband to be "a healthy co-parenting relationship," but she testified that she and Husband "had a domestic incident" while she was pregnant with one of their children in which she "physically attacked" Husband.[107]

In its analysis of the best-interest factors, the trial court found that "[t]here exists a history of documented domestic abuse by [Husband] against [Wife] and by [Husband] against the mother of his other children."[108] Husband argues that this finding is clearly erroneous because it is contrary to B.F.'s testimony. Husband is correct; it appears that the trial court misunderstood B.F.'s testimony on this point because B.F. stated that she attacked Husband and faced legal consequences for it.[109]

---

[106] *See generally* Tr. at 144-157.
[107] Tr. at 144:23, 146:19-24.
[108] Judgment & Decree at 5, ¶ 18(a)(iii).
[109] Tr. at 146:24-147:1.

B.F. further stated that there were no other incidents of domestic abuse between her and Husband.[110]

Although the trial court's finding of fact was clearly erroneous, we conclude that this error was harmless.[111] The trial court noted ample evidence in the record that Husband committed acts of domestic abuse against Wife, which is more relevant to the issue of [redacted] custody than any acts of domestic abuse in Husband and B.F.'s relationship history. Even if the trial court's finding of fact regarding B.F.'s testimony was omitted from its analysis, it is unlikely that its custody determination would change.

VI. The trial court did not abuse its discretion by excluding Husband's evidence.

Finally, Husband challenges the trial court's decision to exclude certain video recordings and text-message exchanges he offered at trial.[112] He explains that the video recordings depict Wife using heroin, admitting to having a drinking problem, and expressing suicidal ideation.[113] He argues that the trial court abused its discretion by excluding these recordings because they were probative of Wife's chemical and mental health and relevant to the trial court's determination of custody and parenting time.[114]

---

[110] *Id.* at 147:2-4.
[111] *See Clark v. Clark*, 642 N.W.2d 459, 465 (Minn. Ct. App. 2002) (applying the principle that harmless error may be ignored to dissolution proceedings).
[112] A. Br. at 43-47.
[113] *Id.* at 45.
[114] *Id.* at 45-46.

Husband does not specify which text-message exchanges the court erroneously excluded, but he alleges that they involve Wife making sexual advances toward Husband.[115] He argues that trial court abused its discretion by excluding this evidence because it rebuts Wife's claims of domestic violence and proves that the parties can communicate and co-parent.[116]

We review the trial court's evidentiary rulings for an abuse of discretion.[117] Even if the trial court abused its discretion in excluding evidence, we will reverse its decision only if the evidence "might have reasonably changed the result of the trial."[118]

The Community's Rules of Civil Procedure establish that the Federal Rules of Evidence apply to Tribal Court actions.[119] The Federal Rules of Evidence provide that relevant evidence is generally admissible, but courts may exclude evidence when its probative value is substantially outweighed by the danger of unfair prejudice or needlessly presenting cumulative evidence, among other dangers.[120]

We conclude that the probative value of Husband's video recordings was minimal and was substantially outweighed by its prejudicial and cumulative nature. The testimony given at trial was more than sufficient to establish that both parties

---

[115] *Id.* at 46.
[116] *Id.* at 46-47.
[117] *Kostelnik v. Little Six, Inc.*, 1 Shak. A.C. 92, 100 (Mar. 17, 1998).
[118] *Id.*
[119] SMS(D)C R. Civ. P. 27.
[120] Fed. R. Evid. 402, 403.

previously struggled with substance-abuse and mental-health issues. Furthermore, we conclude that Husband's text-message evidence does not meet the baseline threshold of relevance.[121] Wife's consent to and pursuit of a sexual relationship with Husband does not negate the possibility that Wife also experienced domestic abuse in the relationship and is wholly irrelevant to the issues of custody and parenting time. In sum, the trial court did not abuse its discretion in excluding Husband's evidence.

It therefore is ordered that the decision of the trial court is affirmed in part, reversed in part, and remanded for further findings consistent with this opinion.

Dated: December 28, 2023

Judge Vanya S. Hogen

Pro Tem Judge Terry Mason Moore

Pro Tem Judge Andrew Adams III

[121] *See* Fed. R. Evid. 401 ("Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining the action.").