

NOT DESIGNATED FOR PUBLICATION

No. 101,816

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

In the Matter of the Marriage of

JAMES C. FISHER,
Appellee,

and

LAURIE C. FISHER, now GREY,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; ANTHONY J. POWELL, judge. Opinion filed February 12, 2010. Affirmed.

Laurie C. Grey, appellant pro se.

Nancy Ogle, of Ogle Law Office, L.L.C., of Wichita, for appellee.

Before STANDRIDGE, P.J., MARQUARDT, J., and BRAZIL, S.J.

Per Curiam: Laurie Grey appeals from the district court's divorce decree which divided marital assets and denied her spousal maintenance. We affirm.

Citing incompatibility, James Fisher filed for legal separation and separate maintenance from his wife, Laurie Fisher (now Grey), in August 2006 after nearly 5 years of marriage. The district court entered a temporary order that granted the parties joint legal custody of their daughter, V.F. Fisher was designated as the primary custodial parent. The district court made a temporary division of the marital assets and debts and ordered no spousal maintenance.

The same month that the temporary order was issued, Grey filed a motion to modify the temporary order, asking for primary custody of V.F.; \$463 per month in child support; \$721 per month in spousal maintenance; a freezer; a washer; a dryer; half of the equity in the marital property; and half of Fisher's retirement benefits. The district court denied the motion and ordered Grey to submit to drug testing.

In November 2006, Grey reported to the district court that the parties were attempting to reconcile. However, almost a year later, in September 2007, Fisher amended his petition for legal separation and requested a divorce. In response, Grey filed another motion for temporary spousal maintenance. The district court granted the motion.

Claiming that her two previous attorneys were ineffective, Grey filed four pro se motions in August 2008. The first motion asked the district court's permission "to allow her friend and mentor to assist her" through the court proceedings. She alleged in the motion for the first time that Fisher physically and mentally abused her and their children during the marriage and divorce proceedings. However, Grey withdrew this motion before the district court ruled on it.

In her second motion, Grey asked permission to attend all court hearings by telephone. Grey claimed she needed to move away from Wichita to protect herself from Fisher's "ongoing instances of mental and even physical abuse, and treats [*sic*] of physical abuse." The third motion requested the district court to enjoin Fisher from selling the marital residence. The fourth motion requested an increase in spousal maintenance to \$1500 per month. The district court denied all of these motions.

On December 3, 2008, the district court filed a divorce decree, noting Grey's "lengthy history of using illegal drugs and her psychological disabilities." The district court granted the parties joint legal custody of V.F., designating Fisher as the primary custodial parent. Although the district court ordered Fisher to satisfy his outstanding spousal support obligation, the district court did not order Fisher to pay additional spousal maintenance. Grey was not ordered to pay child support.

Numerous domestic relations affidavits were filed which listed the parties' marital assets and debts. A pretrial conference order included each party's proposed division of assets and debts, the age of the parties, the duration of the marriage, the property owned by the parties, each party's present earning capacity, and their family ties and obligations. The divorce decree divided the parties' assets and debts; however, it did not assign a monetary value on each item. Grey appeals.

The district court has broad discretion when dividing the property and debts in a divorce proceeding, and this court will not disturb the exercise of that discretion on appeal absent a clear showing of abuse. *In re Marriage of Wherrell*, 274 Kan. 984, 986, 58 P.3d 734 (2002). The district court abuses its discretion when no reasonable person would adopt the district court's position. See *In re Marriage of Bradley*, 282 Kan. 1, 7, 137 P.3d 1030 (2006). Further, the district court abuses its discretion when it goes outside the applicable legal standards or statutory limitations when making its decision. *Dragon v. Vanguard Industries, Inc.*, 277 Kan. 776, 779, 89 P.3d 908 (2004).

An appellate court will not reverse a district court's decision denying spousal maintenance absent a clear abuse of discretion. *In re Marriage of Day*, 31 Kan. App. 2d 746, 758, 74 P.3d 46 (2003). If reasonable persons could differ as to the propriety of the action taken by the district court, then it cannot be said that the district court abused its discretion. *Bradley*, 282 Kan. at 7. The party asserting an abuse of discretion bears the

burden of showing such abuse. See *In re Marriage of Larson*, 257 Kan. 456, 463-64, 894 P.2d 809 (1995).

Although this court must liberally construe the filings of pro se litigants, a pro se litigant must follow the same rules of procedure as represented parties. See *In re Estate of Broderick*, 34 Kan. App. 2d 695, 701, 125 P.3d 564 (2005). Even liberally construing Grey's arguments on appeal, her appellate brief fails to comply with Supreme Court Rule 6.02 (2009 Kan. Ct. R. Annot. 38). This failure precludes a meaningful review by this court.

An appellant's brief shall contain facts that are "keyed to the record on appeal by volume and page number so as to make verification reasonably convenient. Any material statement made without such a reference may be presumed to be without support in the record." Rule 6.02(d) (2009 Kan. Ct. R. Annot. 38). Grey does not cite to the record on appeal to support any fact alleged in her appellate brief. Thus, this court presumes her factual statements are without support. See *In re Sylvester*, 282 Kan. 391, 400, 144 P.3d 697 (2006).

Further, Rule 6.02(e) (2009 Kan. Ct. R. Annot. 38-39) states: "Each issue shall begin with citation to the appropriate standard of appellate review and a reference to the specific location in the record on appeal where the issue was raised and ruled upon." Grey has failed to cite a standard of review for any issue.

Grey filed a cross-appellee's brief on September 8, 2009. However, Fisher did not file a cross-appeal. Therefore, we assume that Grey's cross-appellee's brief is most likely a reply brief. Assuming her brief is a reply brief, she argues for the first time on appeal that the district court abused its discretion when it divided the marital property. After thanking Fisher's appellate counsel for "all the references and keys to the record on appeal" and researching the issue, she cites Fisher's appellate brief for authority regarding the standard of review.

Grey cites to the Pledge of Allegiance; the preamble to the United States Constitution; and the Fifth, Sixth, and Eighth Amendments to the United States Constitution as evidence that she received ineffective representation during the divorce proceedings.

In Kansas, K.S.A. 60-1601 *et seq.* governs divorce proceedings, the division of marital property, and the award of spousal maintenance, not the United States Constitution, not Fisher's appellate brief, and not the Pledge of Allegiance. *E.g., In re Marriage of Welliver*, 254 Kan. 801, 810, 869 P.2d 653 (1994). Further, there is no general constitutional right to counsel in civil cases; therefore, Grey had no constitutional right to effective assistance of counsel. See *Brown v. State*, 278 Kan. 481, 483, 101 P.3d 1201 (2004).

In Grey's reply brief, she argues that the district court abused its discretion by ignoring her pro se motions that alleged: (1) Fisher mentally and physically abused her; (2) she contributed \$148,000 during the marriage; and (3) she contributed to the marriage as a wife, mother, and homemaker. However, the record on appeal reveals that the district court considered all of her motions and denied them.

Grey alleges in her reply brief that the district court failed to consider the factors listed in K.S.A. 60-1610(b)(1). This court's review is severely limited by the absence of a transcript of the divorce proceeding. However, the district court stated in the divorce decree that it reviewed the file and exhibits.

Moreover, Grey has failed to show that the district court arbitrarily disregarded consideration of any statutory factors or that it relied solely on one factor. The district court's failure to articulate and to discuss each of the factors listed in K.S.A. 60-1610(b)(1) does not mandate reversal of the district court's decision. See *In re Marriage of Whipp*, 265 Kan. 500, 508-09, 962 P.2d 1058 (1998).

Further, Grey does not claim that she objected to the district court's method of property division or that she asked the court to reconsider its divorce decree. Generally, a litigant must object to inadequate findings of fact and conclusions of law to preserve the issue for appeal. Without an objection, we presume the district court found all facts

necessary to support its judgment. *Dragon v. Vanguard Industries*, 282 Kan. 349, 356, 144 P.3d 1279 (2006).

Accordingly, Grey has failed to carry her burden of showing that the district court abused its discretion when it issued its divorce decree.

Affirmed.