

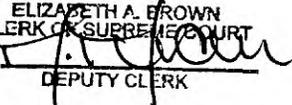
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN KWOK SHEUNG YU,
Appellant,
vs.
ROURONG YU,
Respondent.

No. 86578-COA

FILED

APR 29 2024

ELIZABETH A. BROWN
CLERK OF SUPERIOR COURT
BY: 
DEPUTY CLERK

ORDER AFFIRMING IN PART AND DISMISSING IN PART

Brian Kwok Sheung Yu appeals from a district court post-divorce-decree order involving marital property. Eighth Judicial District Court, Family Division, Clark County; Bill Henderson, Judge.

In 2015, the district court entered a decree of divorce that ended Brian and respondent Rourong Yu's marriage and distributed their community property. Brian subsequently filed several motions challenging the distribution of community property and seeking to alter the decree's terms. Rourong opposed Brian's motions and filed her own motions for relief that alleged Brian improperly removed community funds from various accounts and that he should therefore compensate her for that activity from his separate property. The district court ultimately denied Brian's request to amend the decree, found that Brian removed \$176,000 from community accounts, and awarded Rourong \$88,000 from Brian's separate property based on his removal of community funds from the accounts. On appeal, this court affirmed the order of the district court. *Yu v. Yu*, No. 70348-COA, 2018 WL 4691693 (Nev. Ct. App. Sept. 14, 2018) (Order of Affirmance).

Rourong subsequently filed several motions seeking to enforce the decree and the district court's post-decree order. Brian opposed those motions. The district court later entered an order finding that it needed to adjudicate disputes related to the distribution of funds held in several accounts, make findings concerning a distribution of the marital community's interest in Brian's accrued sick and vacation hours, and resolve issues relating to an additional \$19,989 that Brian had previously been ordered to pay to Rourong.

The district court subsequently conducted an evidentiary hearing concerning the outstanding issues at which the parties testified. The court later entered a written order memorializing its ruling from the hearing. In its order, the court found that it had previously concluded that Brian created and funded a Synchrony Bank account with funds belonging to the marital community and that he concealed those funds when the parties became divorced. The court further found that funds held in a Gain Capital account had also been concealed and Brian had previously been ordered to provide Rourong with her one-half interest in those funds. In addition, the court determined that Rourong was entitled to one-half of the community interest in the value of Brian's sick and vacation hours and, thus, the court awarded Rourong \$34,579 for her interest in that benefit. Finally, the district court ordered Brian to pay Rourong \$19,989 that he owed her. This appeal followed.

Initially, Brian seeks reversal of the underlying decree of divorce. Brian argues that, in the decree, the district court improperly found that an investment account was community property, that it was improper for Rourong's attorney to have drafted the decree, and that

Rourong inserted information into the written decree prior to its filing without his approval. However, Brian did not timely appeal from the decree of divorce, *see* NRAP 4(a)(1) (providing that a notice of appeal must be filed no later than 30 days after service of written notice of entry of the challenged judgment or order), and thus, this court lacks jurisdiction to consider Brian's challenges to the decree, *see Healy v. Volkswagenwerk Aktiengesellschaft*, 103 Nev. 329, 331, 741 P.2d 432, 433 (1987) (stating an untimely notice of appeal fails to invoke this court's jurisdiction). Accordingly, we dismiss Brian's untimely challenges to the decree of divorce.

Next, Brian challenges the district court's findings and conclusions stemming from the evidentiary hearing. Brian contends the court abused its discretion by finding that he concealed the Synchrony Bank account from Rourong and that he owed her funds from that account, and that he still owed Rourong funds from the Gain Capital account. Brian also contends that the court miscalculated the value of the sick and vacation leave owed to Rourong. And while Brian acknowledges that he owed Rourong \$19,989, he nonetheless asserts that the court should have offset that amount against money he previously provided to Rourong to pay for her attorney.

"This court reviews district court decisions concerning divorce proceedings for an abuse of discretion." *Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004) (quotation marks omitted); *see also Schwartz v. Schwartz*, 126 Nev. 87, 90, 225 P.3d 1273, 1275 (2010) (reviewing a district court division of marital property for an abuse of discretion). We will not disturb a district court's decision in this regard when it is supported

by substantial evidence, which is “that which a sensible person may accept as adequate to sustain a judgment.” *Williams*, 120 Nev. at 566, 97 P.3d at 1129. Moreover, “[t]he district court has inherent authority to interpret and enforce its decrees.” *Byrd v. Byrd*, 137 Nev. 587, 590, 501 P.3d 458, 462 (Ct. App. 2021); *see also* NRS 125.240 (“The final judgment and any order made before or after judgment may be enforced by the court by such order as it deems necessary.”).

Here, to the extent Brian challenges the district court’s factual findings, this court will not second guess a district court’s resolution of factual issues involving conflicting evidence so long as its decision is supported by substantial evidence. *See Ellis v. Carucci*, 123 Nev. 145, 152, 161 P.3d 239, 244 (2007). Moreover, Brian’s claims concern evidence and arguments presented at the evidentiary hearing and the district court’s findings based on the evidence and arguments. However, while Brian filed a transcript request form, and the court reporter filed a notice indicating that the transcripts were delivered, Brian did not provide this court with a copy of the evidentiary hearing transcript or otherwise act to ensure this court received a copy of the transcript. *See* NRAP 9(b)(1)(B) (requiring pro se litigants who request transcripts and have not been granted in forma pauperis status to file a copy of their completed transcript with the clerk of court).¹

¹We note the supreme court issued a notice to Brian in which it instructed him that appellants who have not been granted in forma pauperis status and have requested a transcript “must file a copy of the transcript in this court” and cited specifically to NRAP 9(b)(1)(B). The supreme court also issued an order on August 30, 2023, informing Brian

Because Brian did not provide this court with the transcript of the evidentiary hearing, we necessarily presume that the transcript supports the district court's findings, and thus, we conclude substantial evidence supports the district court's findings regarding the division of property and the enforcement of the decree and post-judgment orders. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (noting that it is appellant's burden to ensure that a proper appellate record is prepared and that, if the appellant fails to do so, "we necessarily presume that the missing [documents] support[] the district court's decision"). Indeed, without a copy of the evidentiary hearing transcript, we are unable to meaningfully review Brian's challenges to the district court's conclusions that were based upon these findings regarding the evidence presented at the evidentiary hearing. Therefore, we conclude Brian failed to demonstrate that the district court abused its discretion concerning the division of property and the enforcement of the decree and post-judgment orders. *See Williams*, 120 Nev. at 566, 97 P.3d at 1129; *see also Kilgore v. Kilgore*, 135 Nev. 357, 365-66, 449 P.3d 843, 849-50 (2019) (reviewing a division of vacation and sick pay belonging to a marital community for an abuse of discretion).

that he had not filed transcripts on appeal and reminding him that it was his responsibility to do so. To the extent Brian asserts that the transcripts were somehow inaccurate, the supreme court's August 30 order informed Brian he needed to utilize the procedure outlined in NRAP 10(c) (explaining the process for seeking to correct the record in the district court) to address this issue, but Brian declined to do so.

Finally, Brian appears to contend that the district court abused its discretion by adopting Rourong's proposed order. As explained previously, on appeal Brian has failed to demonstrate that the district court's written order contained unsupported findings of fact or erroneous conclusions of law. In light of the aforementioned circumstances, we conclude Brian fails to demonstrate the district court abused its discretion by adopting Rourong's proposed order. *See Eivazi v. Eivazi*, 139 Nev., Adv. Op. 44, 537 P.3d 476, 484 (Ct. App. 2023). Accordingly, we conclude that Brian is not entitled to relief.

It is so ORDERED.²


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

²Brian also contends that the district court did not consider several motions he filed raising claims concerning the distribution of community property. Brian filed the aforementioned motions, but the district court did not resolve them, and thus, those motions remain pending below. To the extent Brian presents arguments regarding those motions, because the motions remain pending below, his arguments in this regard are not properly before us on appeal.

In addition, insofar as Brian raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Bill Henderson, District Judge, Family Division
Brian Kwok Sheung Yu
Rourong Yu
Eighth District Court Clerk