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Jeanie M. McReynolds, appellant, v. Samuel K. McReynolds, appellee.

___ N.W.3d ___

Filed October 6, 2026. No. A-25-813.

1. **Divorce: Property Division: Alimony: Attorney Fees: Appeal and Error.** In actions for dissolution of marriage, an appellate court reviews the case de novo on the record to determine whether there has been an abuse of discretion by the trial judge. This standard of review applies to the trial court's determinations regarding division of property, alimony, and attorney fees.
2. **Appeal and Error.** The construction of a mandate issued by an appellate court presents a question of law on which an appellate court is obligated to reach a conclusion independent of the determination reached by the court below.
3. **Property Division: Proof.** Just as the burden of proving the existence of a debt is on the party who seeks to divide it, the burden of proving an asset has appreciated is on the party seeking to share in it.
4. **Divorce: Property Division: Proof.** To determine the appreciation in a business, its value as of the date of marriage and its value at the time of separation must be established.
5. **Corporations: Valuation.** To determine the value of a closely held corporation, the trial court may consider the nature of the business, the corporation's fixed and liquid assets at the actual or book value, the corporation's net worth, marketability of the shares, past earnings or losses, and future earning capacity.

Appeal from the District Court for Gage County: Ricky A. Schreiner, Judge. Affirmed.

Lyle Joseph Koenig, of Koenig Law Firm, for appellant.

Alex M. Lierz, of Nebraska Legal Group, for appellee.

Riedmann, Chief Judge, and Pirtle and Piccolo, Judges.

Riedmann, Chief Judge.

INTRODUCTION

Upon remand in this marital dissolution case, we directed the district court for Gage County to determine whether evidence in the record, including specific evidence that the district court had improperly excluded, supported a finding of active appreciation of the husband's premarital business. See *McReynolds v. McReynolds*, 33 Neb. App. 733, 24 N.W.3d 906 (2025). If so, it was to include the amount of appreciation in the marital estate and equitably divide it if the evidence was sufficient to quantify it. See *id*. In a judgment on remand, the district court concluded that the evidence did not support a conclusion that the business had grown in value during the marriage. It therefore determined that the business remained the separate property of the husband. The wife appeals.

BACKGROUND

Jeanie M. McReynolds filed a complaint for dissolution of her marriage to Samuel K. McReynolds. See *id*. During the dissolution trial, the district court excluded from evidence the corporate tax returns of Green Quest Recycling (Green Quest), Samuel's premarital business that he continued to operate during the marriage. *Id*. Following trial, the district court entered a decree in which it determined Samuel's premarital business was nonmarital property and equitably divided the marital estate. Jeanie appealed. *Id*. We affirmed in part, reversed and vacated in part, and remanded for further proceedings. *Id*.

Specifically, we determined that the district court improperly excluded the corporate tax returns from 2018 through 2021 that Jeanie had offered to prove the business had appreciated in value. *Id*. We determined that "[a]ny active appreciation in Green Quest's value would be part of the marital

estate; however, the district court improperly excluded the only documentary evidence Jeanie offered in an attempt to prove this increase." *Id*. at 746, 24 N.W.3d at 919. And because the district court determined that Green Quest was Samuel's premarital property without the benefit of analyzing whether it had increased in value during the marriage, we vacated the district court's division of property. We instructed: "We remand the cause to the district court to determine whether the evidence in the record, including the tax returns, supports a finding of active appreciation and to include that amount in the marital estate and equitably divide it if the evidence is sufficient to quantify it." *Id*. at 748-49, 24 N.W.3d at 921.

In its judgment on remand, the district court indicated that the matter came on for hearing on September 16, 2025, on our mandate. It synopsized:

> [T]he question before this Court is whether there was sufficient evidence (after receiving the previously excluded tax returns) to determine whether there was any increase in the value of [Green Quest] caused by active appreciation during the marriage and, if so, the value of that increase that should be included in the marital estate.

It observed that there was no expert testimony or expert opinion to determine the business' fair market value at either the date of marriage or the date of separation. It stated that it had reviewed the previously excluded trial exhibits but determined that although they "constitute some evidence of business valuation, they are not alone dispositive on that issue." It further noted that the 2-year comparison between income in 2020 and 2021 was "misleading" because the corporation was formed only in the last quarter of 2020; hence, a full year's income from 2021 would be a "drastic increase" in comparison to 2020. Based on its review of all the evidence, the district court found Samuel's testimony credible that Green Quest had not increased in value. Resultantly, it determined that the business remained Samuel's premarital asset.

ASSIGNMENTS OF ERROR

Jeanie assigns that the district court erred in failing to (1) equally divide on remand the active appreciation of the marital estate and (2) follow the mandate of this court.

STANDARD OF REVIEW

[1] In actions for dissolution of marriage, an appellate court reviews the case de novo on the record to determine whether there has been an abuse of discretion by the trial judge. This standard of review applies to the trial court's determinations regarding division of property, alimony, and attorney fees. *Davidson v. Davidson*, 254 Neb. 656, 578 N.W.2d 848 (1998).

[2] The construction of a mandate issued by an appellate court presents a question of law on which an appellate court is obligated to reach a conclusion independent of the determination reached by the court below. *Pursley v. Pursley*, 261 Neb. 478, 623 N.W.2d 651 (2001).

ANALYSIS

No Growth in Business.

Jeanie argues that exhibit 18, the 2020 tax return signed by Samuel on September 8, 2021, shows a corporate value of $2,014,734 and that exhibit 19, the 2021 tax return signed by Samuel on August 30, 2022, shows a corporate value of $3,063,241. She concludes these documents "show an increase of $1,078,507.00 in the value of Green[]Quest between September 8, 2021, and August 30, 2022." Brief for appellant at 9. This is factually incorrect. Although the tax returns were signed on the dates stated, exhibit 18 represents the tax year 2020 and exhibit 19 represents the tax year 2021. The numbers therefore reflect the period of December 2020 to December 2021. The parties married in July 2021, and there is no evidence of the asset value as of that date, nor is there evidence of the asset value as of the date of separation in April 2023.

[3,4] Just as the burden of proving the existence of a debt is on the party who seeks to divide it, we have held that the

burden of proving an asset has appreciated is on the party seeking to share in it. See *Jeffers v. Jeffers, ante* p. 221, 34 N.W.3d 708 (2026). To determine the appreciation in a business, its value as of the date of marriage and its value at the time of separation must be established. Even if we were to accept Jeanie's argument that the tax returns should have been utilized to prove value, which we do not, as explained below, the exhibits fail to identify the value as of the date of marriage and the date of separation. Therefore, Jeanie failed to prove the business appreciated during the marriage.

Furthermore, the evidence is insufficient to conclude that a comparison of the "[t]otal assets," as shown on the tax returns, is proper to determine Green Quest's value in this situation. Jeanie compares the 2020 tax return showing "[t]otal assets" of $2,014,734 to the 2021 tax return showing "[t]otal assets" of $3,063,241 to support her argument that Green Quest's "value" increased by $1,078,507. Brief for appellant at 9. From this premise, she concludes that Samuel failed to prove this appreciation was passive; therefore, it constitutes active appreciation, which is part of the marital estate. We disagree.

[5] As we observed in our review of Jeanie's initial appeal of the dissolution decree, to determine the value of a closely held corporation, the trial court may consider the nature of the business, the corporation's fixed and liquid assets at the actual or book value, the corporation's net worth, marketability of the shares, past earnings or losses, and future earning capacity. *McReynolds v. McReynolds*, 33 Neb. App. 733, 24 N.W.3d 906 (2025). The method of valuation used for a closely held corporation must have an acceptable basis in fact and principle. *Id*.

Samuel asserts our appellate courts have generally determined valuations using either an income-based approach, an asset-based approach, a market approach, or a combination thereof, citing *Simons v. Simons*, 312 Neb. 136, 978 N.W.2d 121 (2022); *Meints v. Meints*, 258 Neb. 1017, 608 N.W.2d 564 (2000); *Bornhorst v. Bornhorst*, 28 Neb. App. 182, 941 N.W.2d

769 (2020); and *Logan v. Logan*, 22 Neb. App. 667, 859 N.W.2d 886 (2015). The Nebraska Supreme Court has likewise recognized three methods to value shares of a company: the asset-based approach, the income approach, and the market approach. See *Bohac v. Benes Service Co.*, 310 Neb. 722, 969 N.W.2d 103 (2022). However, we find the district court did not abuse its discretion in declining to use an asset-based approach utilizing the company's tax returns alone to determine Green Quest's value. See *Bryan v. Bryan*, 222 Neb. 180, 382 N.W.2d 603 (1986) (finding no abuse of discretion in using book value instead of multiple of earnings in determining stock value in dissolution proceeding).

In *Bohac, supra*, the Supreme Court compared expert testimony offered regarding the appropriate valuation methodology for valuing corporate stock. The three experts agreed that the market approach was inapplicable based on an absence of comparable corporations or prior sales but disagreed on whether the asset- or income-based approaches or some combination of the two should be utilized. See *id*. *Bohac* instructs that various factors are to be considered in determining the proper valuation method; however, in the present case, Jeanie presented no evidence to support her position that an asset-based approach was proper.

It is true that active appreciation converts to marital property the increase in a nonmarital asset's value due to a contribution of marital funds or efforts. See *Jeffers v. Jeffers, ante* p. 221, 34 N.W.3d 708 (2026). But we decline to hold that the district court abused its discretion in refusing to equate an increase in the value of Green Quest's total assets as shown on its 2020 and 2021 tax returns to an appreciation in the company's value during the marriage. This assigned error fails.

Compliance With Mandate.

Jeanie assigns that the district court erred in failing to follow our mandate. She asserts that the district court concluded

that "expert testimony was necessary to determine the 'fair market value'" of Green Quest, but the mandate did not use the phrase "'fair market value.'" Brief for appellant at 14. She argues that our mandate prevented the district court from "searching for the 'fair market value' of Green[]Quest." *Id*. We read the judgment on mandate to be compliant with our mandate.

In *McReynolds v. McReynolds*, 33 Neb. App. 733, 748-49, 24 N.W.3d 906, 921 (2025), we stated: "We remand the cause to the district court to determine whether the evidence in the record, including the tax returns, supports a finding of active appreciation and to include that amount in the marital estate and equitably divide it if the evidence is sufficient to quantify it." The district court identified the issue it was to determine as

> whether there was sufficient evidence (after receiving the previously excluded tax returns) to determine whether there was any increase in the value of [Green Quest] caused by active appreciation during the marriage and, if so, the value of that increase that should be included in the marital estate.

Although the district court used the phrase "fair market value" in its review of the record, including the previously excluded income tax returns, it looked for growth in the value of the business. Growth in value is synonymous with appreciation. See, e.g., *White v. White*, 304 Neb. 945, 937 N.W.2d 838 (2020) (discussing growth in value of investment account in determining existence of active appreciation). Importantly, after discrediting the tax returns as indicative of growth, the district court recognized that the record contained no other evidence of Green Quest's value at either the date of marriage or the date of separation. As explained above, this was fatal to Jeanie's claim of appreciation. And because she failed to prove appreciation, the court was not required to determine whether it was active or passive. Accordingly, we reject Jeanie's argument that the district court exceeded the mandate on remand.

CONCLUSION

We find no abuse of discretion in the district court's judgment on mandate, nor do we agree it failed to comply with our mandate. Accordingly, we affirm the judgment determining Green Quest remains the separate, premarital asset of Samuel and the corresponding division of property contained in the May 8, 2024, decree of dissolution.

Affirmed.