THE UTAH COURT OF APPEALS

REBECKA ANN PEARSON,
Appellant,
v.
KEENAN OAKS PEARSON,
Appellee.

Opinion
No. 20251103-CA
Filed November 5, 2026

Sixth District Court, Manti Department
The Honorable Robert Van Dyke
No. 244600087

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Attorneys for Appellee

JUDGE DAVID N. MORTENSEN authored this Opinion, in which JUDGES RYAN M. HARRIS and AMY J. OLIVER concurred.

MORTENSEN, Judge:

¶1 The district court entered findings of fact and a decree divorcing Rebecka and Keenan Pearson.[1] Rebecka appeals that judgment on two grounds: the district court erred in determining that commingled marital property had regained its separate property status such that it did not need to be divided equally and the district court exceeded its discretion in refusing to allow her to relocate out of state with the parties' minor children. We agree with Rebecka on the first issue, but not the second. Therefore, we vacate and remand in part and affirm in part.

1. We refer to the parties by their given names to avoid the confusion caused by using a common surname.

BACKGROUND

¶2 Rebecka and Keenan married in April 2013 and divorced in August 2025; they share four minor children. In 2016, during the marriage, Keenan suffered an accident that resulted in permanent physical disabilities, specifically the loss of one leg and limited functionality of the other. Following the accident, Keenan received a substantial personal injury insurance settlement.

¶3 The parties purchased a house using $400,000 from those settlement proceeds. Prior to purchasing the property, the funds had been deposited into a joint account, and title to the house was subsequently placed in a joint revocable trust. As the district court found, these deliberate actions "expressed a clear intent on [Keenan's] part, that the property become joint property."

Property Division

¶4 In its property division award, the district court acknowledged that the house—as evidenced by the clear commingling described above—constituted marital property, despite being purchased using Keenan's settlement funds. Nevertheless, the court awarded the house's purchase price to Keenan as separate property, while dividing the house's appreciation equally:

> [T]he Court essentially finds that the main purpose of putting the home in the trust was for the purposes of estate planning, and that extraordinary circumstances apply in this situation because [Keenan] has ongoing medical expenses. The home itself was modified to meet many of his current disabilities, and ongoing medical needs. Because of his disability and inability to earn income which has been made clear [by the fact] that he is on Social Security Disability, that specific piece of property is absolutely necessary for him to continue to care for

> himself, and for his family, regardless to what extent he would have custody or visitation of the children. The Court understands that is a high bar but finds those are extraordinary circumstances because of the accident that occurred to him in 2016. It would be an extreme hardship for him to remove the home from him. So the Court finds that the $400,000 under that exception *remains personal property*, and that the increase in value to the $590,000, the $190,000 is marital property, and must be divided equally.

(Emphasis added.)

Custody and Relocation

¶5 The district court determined that the parties should have joint legal and physical custody of the children. It reached this decision after conducting a best interest analysis evaluating the relevant statutory custody factors. *See* Utah Code § 81-9-204(3)–(4) (listing the factors). The court determined that co-parenting skills favored Rebecka slightly, moral character favored Keenan slightly, and religious compatibility favored Keenan slightly, with all other statutory factors being equal. Notably, the court found that the children were "particularly bonded" with their grandmother and other family members who lived close by.

¶6 The "biggest issue," as the court viewed it, was relocation. The court noted that Rebecka wanted to move to Colorado to be near her new boyfriend, but the court did not view that proposed arrangement "as a very stable situation for the children." The court found that the children were enrolled in local schools, were making good academic progress, and had individual educational plans and other essential support services in place. And it concluded that disrupting this stable educational and familial environment would not serve the children's best interest. Accordingly, the court denied Rebecka's request to relocate with the children to Colorado and awarded Keenan primary custody,

with Rebecka receiving statutory parent-time. The court noted that her parent-time would be adjusted if she lived within 150 miles of Keenan.

ISSUES AND STANDARDS OF REVIEW

¶7 Rebecka appeals, first arguing that the district court exceeded its discretion in awarding Keenan an unequal share of equity in the marital house even though it had determined the house was marital property. "We afford the trial court considerable latitude in adjusting financial and property interests, and its actions are entitled to a presumption of validity." *Riley v. Riley*, 2006 UT App 214, ¶ 16, 138 P.3d 84 (cleaned up). "Accordingly, changes will be made in a trial court's property division determination in a divorce action only if there was a misunderstanding or misapplication of the law resulting in substantial and prejudicial error, the evidence clearly preponderated against the findings, or such a serious inequity has resulted as to manifest a clear abuse of discretion." *Davis v. Davis*, 2003 UT App 282, ¶ 8, 76 P.3d 716 (cleaned up).

¶8 Rebecka next claims that the district court exceeded its discretion in refusing to allow her to relocate with the children. "A district court's award of custody," including consideration of relocation issues, "is reviewed for abuse of discretion." *Taylor v. Elison*, 2011 UT App 272, ¶ 8, 263 P.3d 448; *accord Pingree v. Pingree*, 2015 UT App 302, ¶ 6, 365 P.3d 713.

ANALYSIS

I. Property Division

¶9 Rebecka first complains that the district court "misapplied the narrow extraordinary-circumstances doctrine to award [Keenan] more than one-half of the equity in the marital home,

despite finding [Keenan's] personal injury funds were commingled such that the home was marital property and that [Rebecka] made substantial marital contributions." She asserts that "Utah law does not permit deviation from equal division once it finds an asset is marital based on generalized fairness concerns." While we disagree with much of Rebecka's reasoning, we nevertheless vacate the unequal award of the house's value because the district court misapplied the extraordinary-circumstances exception in dividing the house, leading it to conduct an improper analysis of the parties' needs in making the award.

¶10 Here, the district court took an incorrect and unavailable route to reach its determination that $400,000 of the house's value should be awarded to Keenan when it applied the extraordinary-circumstances exception. This is how we understand the district court's analysis. Relying on *Thorup v. Thorup*, 2024 UT App 93, 554 P.3d 329, the court appears to have reasoned that a portion of the settlement award—the $400,000 used to buy the house—never actually became marital property due to extraordinary circumstances. But the court reached this conclusion in the face of its contradictory finding that Keenan "expressed a clear intent" that the house should be joint property—and thus considered marital property. *See id.* ¶ 24 ("One rather obvious situation in which commingling occurs is where one spouse has contributed all or part of the property to the marital estate with the intent that it become joint property." (cleaned up)). The court made unchallenged findings that $400,000 of Keenan's settlement proceeds had been placed into a joint account and that the house was titled in a joint trust when it was purchased. The court correctly noted that *Thorup* identified "extraordinary circumstances" as a situation that could justify "invasion of a spouse's separate property [as] the only way to achieve equity." *Id.* ¶ 26 (cleaned up). But then the court said that it was "applying this principle in reverse" to reach the conclusion that the "main purpose" of regarding the house as joint property (via depositing

the funds used to purchase it into a joint account and placing its title in a joint revocable trust) was for estate planning, with the inference being that the money used to purchase the house remained the "personal property" of Keenan and not subject to equal division. To be perfectly clear, this approach of applying the extraordinary-circumstances exception "in reverse" to transform once-separate property that became marital property back into separate property is incorrect and has no foundation in our jurisprudence.[2]

¶11 Courts can use exceptional or extraordinary circumstances to achieve equity in divorce and family law cases, and this opportunity generally arises in two contexts. Although similar language has been used in both of these situations, the concepts underlying the situations are distinct, and courts must take care not to confuse them. We first lay out the two-fold nature of the extraordinary-circumstances exception, and we then explain its correct application here.

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2. This novel, albeit incorrect, idea of running the extraordinary-circumstances exception in reverse appears to have originated at the divorce trial. Keenan's counsel had argued that there had never been true commingling of the $400,000 into the marital estate because that amount was traceable, asserting that amount remained separate property. Rebecka's counsel responded that the $400,000 was indeed commingled with the marital estate—as evidenced by the multiple actions the parties took in purchasing the house together—making the traceability of the funds irrelevant. After taking a few minutes to consider the matter, the district court split the difference, so to speak. While finding that Keenan "expressed a clear intent" that the house be joint property, the court said it was "essentially applying [the] principle [of extraordinary circumstances] in the reverse" to restore the $400,000 to separate property status.

¶12 *Making separate property marital*: One situation in which the exception may be used is awarding one spouse's separate property to the other spouse "in extraordinary situations where equity so demands." *Lindsey v. Lindsey*, 2017 UT App 38, ¶ 46, 392 P.3d 968 (cleaned up). "The bar for establishing an extraordinary situation is high, traditionally requiring that invasion of a spouse's separate property is the only way to achieve equity." *Id.* (cleaned up). The implication is that a court can apply this exception to make a piece of *separate* property *marital* if neither of the other two exceptions (namely, commingling or contribution) achieves equity. *Thorup*, 2024 UT App 93, ¶¶ 24–26 (describing extraordinary circumstances as a "catch-all exception for situations—not covered by either of the first two exceptions—in which extraordinary circumstances warrant a departure from the presumptive rule" (cleaned up)). Application of this exception can unfold in only one direction and can't be done in reverse. In other words, it cannot be used to transform marital property into separate property.

¶13 *Dividing marital property unequally*: The other relevant situation involves making an unequal but still equitable division of marital property. A "trial court may elect to distribute marital property unequally when the circumstances and needs of the parties dictate a departure from the general rule" presuming an equal split of marital property. *Bradford v. Bradford*, 1999 UT App 373, ¶ 26, 993 P.2d 887. Thus, rather than simply defaulting to a position that each party is "entitled to fifty percent of the marital property," a district court may "consider the existence of exceptional circumstances and, if any be shown, proceed to effect an equitable distribution in light of those circumstances." *Fischer v. Fischer*, 2021 UT App 145, ¶ 23, 505 P.3d 56 (cleaned up).

¶14 Here, the district court erred in using the extraordinary-circumstances exception "in reverse" to transform marital property into separate property. In particular, the district court's "reverse" use of the extraordinary-circumstances exception is not

sustainable here because—based on the court's own findings—the property in question was not separate property. Once the court found that the property was commingled, the property was marital. And then the proper course was to address equitable division of property under the rubric of the second situation just described.

¶15 When dividing marital property unequally under the extraordinary-circumstances exception, a court must consider multiple factors, including both parties' needs, and make detailed findings supporting its conclusion. "In fashioning an equitable property division, trial courts must consider all of the pertinent circumstances, including the amount and kind of property to be divided, the source of the property, the parties' health, the parties' standard of living and respective financial conditions, their needs and earning capacities, the duration of the marriage, what the parties gave up by the marriage, and the relationship the property division has with the amount of alimony awarded." *Naranjo v. Naranjo*, 751 P.2d 1144, 1147–48 (Utah Ct. App. 1988) (cleaned up).[3]

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3. Rebecka resists this conclusion—namely, that the division of marital property may be unequal based on the relative needs of the spouses—by arguing that "Utah courts require that application of the exceptional circumstances doctrine is the *only* way to achieve equity." She asserts that the court should have instead used alimony to address Keenan's post-divorce needs, and she cites *Henshaw v. Henshaw*, 2012 UT App 56, 271 P.3d 837, to support this proposition. But that case merely repeats the standard we have recited above. *See supra* ¶¶ 12–13; *see also Henshaw*, 2012 UT App 56, ¶ 15 ("Each party is presumed to be entitled to all of his or her separate property and fifty percent of the marital property. Before dividing the property according to this presumption, however, the court must consider whether (continued…)

¶16 An important caveat here: a district court cannot summarily decide that marital property should be divided unequally. Instead, it needs to explain why an unequal division is equitable. "When it comes to the unequal division of marital property, a district court must memorialize in detailed findings the exceptional circumstances supporting the distribution. Without adequate findings detailing why one spouse should be entitled to such an unequal split of the marital estate, we cannot affirm the court's award." *Clark v. Clark*, 2023 UT App 111, ¶ 40, 537 P.3d 633 (cleaned up); *see also Beverlin v. Beverlin*, 2025 UT App 72, ¶ 26, 572 P.3d 428 ("If such exceptional circumstances warrant an unequal division of the marital property, the district court must memorialize the exceptional circumstances in detailed findings." (cleaned up)); *Fischer*, 2021 UT App 145, ¶ 23.

¶17 As should now be evident, there was no need for the district court here to break new juridic ground by applying the extraordinary-circumstances exception "in reverse" to reclassify $400,000 of the house's value as separate property in order to award an unequal share of the house's value to Keenan. Instead, the court should have conducted the analysis by applying the extraordinary-circumstances exception *directly* to the marital property—without taking the unnecessary step of using the exception "in reverse" to reclassify marital property as separate property before dividing it.

¶18 The analysis of the district court here—in spite of its being moored in a misapplication of the exception—may have been sustainable had it been complete. *Cf. Thomas v. Thomas*, 1999 UT

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there are any extraordinary circumstances that warrant a departure from the presumptive rule." (cleaned up)). *Henshaw* does not establish a rule that the unequal division of marital property to achieve equity is a remedy of last resort available only after all other solutions—including alimony—have been exhausted.

App 239, ¶ 23, 987 P.2d 603 ("Even if [the district court ambiguously classified property as separate or marital], the court [still] acted within its equitable powers when it allocated the interest in the marital home as it did: Exceptional circumstances, memorialized in commendably detailed findings, justified departure from the general rule that each party is entitled to fifty percent of the marital property."). But here, the court's analysis wasn't complete. What is lacking in the analysis is a consideration of the needs of the *parties*—specifically, the needs and circumstances of Rebecka. The court took into account Keenan's "pertinent circumstances," most notably his health and medical needs arising from the effects of his accident. *See Naranjo*, 751 P.2d at 1147. It also memorialized in detailed findings the extraordinary circumstances as applicable to Keenan supporting an unequal split of the marital estate. *See Clark*, 2023 UT App 111, ¶ 40. But a consideration of only one spouse's circumstances marks only half the work. What is missing here is any consideration of Rebecka's "pertinent circumstances." *See Naranjo*, 751 P.2d at 1147. Our jurisprudence is clear that the district court "may elect to distribute marital property unequally when the circumstances and needs of the *parties* dictate a departure from the general rule." *Bradford*, 1999 UT App 373, ¶ 26 (emphasis added). Put succinctly, the analysis must encompass "the circumstances and needs" of both parties in the divorce, not just one. *Id.*; *see also Naranjo*, 751 P.2d at 1147–48 (noting that an "equitable property division" must take into consideration "all of the pertinent circumstances, including . . . the *parties'* health, the *parties'* standard of living and respective financial conditions, [and] *their* needs and earning capacities" (emphasis added)). Because the district court considered only Keenan's needs and circumstances in making the unequal property division, its analysis was incomplete.

¶19 We therefore conclude that the district court—largely owing to its reliance on a misapplied standard—made insufficient factual findings to support a conclusion that extraordinary

circumstances warranted an unequal distribution of the parties' marital house. Accordingly, we vacate the court's order mandating division of property by which Keenan received a larger share of that asset, and we remand this matter to the district court for further proceedings in which it should conduct a proper analysis under the principles we have articulated here.[4]

II. Custody and Relocation

¶20 Rebecka next contends that the district court exceeded its discretion when it denied her permission to relocate with the children to Colorado. She argues that the court failed to "conduct a comparative, evidence-based best-interest analysis . . . weighing the children's welfare in the existing arrangement against their welfare under [her] proposed relocation plan." She identifies three alleged "critical defects" in the district court's analysis. First, she argues that the court prioritized geographical continuity without conducting a genuine comparative evaluation of the children's welfare under each proposed arrangement. Second, she argues that the court's findings on specific factors—particularly regarding her moral character and the ability of the parties to meet the children's educational needs—were contrary to the clear weight of the evidence or based on impermissible considerations. Third, she asserts that the court failed to address material evidence bearing directly on Keenan's fitness to serve as the primary caregiver.

¶21 In determining custody, courts should analyze the children's best interest through the factors listed in Utah Code section 81-9-204(3)–(4). "Importantly, not all these factors are on equal footing; instead, the district court generally has discretion to determine, based on the facts before it and within the confines

4. We leave it to the district court's discretion whether to simply make additional findings from the record already before it or to take additional evidence on the issue.

set by the appellate courts, where a particular factor falls within the spectrum of relative importance and to accord each factor its appropriate weight." *Twitchell v. Twitchell*, 2022 UT App 49, ¶ 20, 509 P.3d 806 (cleaned up). "Nevertheless, a court commits legal error where it fails to accord the appropriate level of weight to a critical factor or where it relies too heavily on a less critical factor." *Duffin v. Duffin*, 2025 UT App 136, ¶ 22, 578 P.3d 751. And "while the district court is accorded discretion in weighing these factors, it must be guided at all times by the best interests of the child, and it must set forth written findings of fact and conclusions of law which specify the reasons for its custody decision." *Hinds v. Hinds-Holm*, 2022 UT App 13, ¶ 30, 505 P.3d 1136 (cleaned up).

¶22 "The factual findings of the district court will not be disturbed unless they are clearly erroneous by being in conflict with the clear weight of the evidence. But the existence of conflicting evidence is not sufficient to set aside a district court's finding." *Nebeker v. Orton*, 2019 UT App 23, ¶ 16, 438 P.3d 1053 (cleaned up). Rather, "to successfully challenge a trial court's factual finding on appeal, the appellant must overcome the healthy dose of deference owed to factual findings by identifying and dealing with the supportive evidence and demonstrating the legal problem in that evidence, generally through marshaling the evidence." *Taft v. Taft*, 2016 UT App 135, ¶ 19, 379 P.3d 890 (cleaned up). As we have frequently noted, "the pill that is hard for many appellants to swallow is that if there is evidence supporting a finding, absent a legal problem—a fatal flaw—with that evidence, the finding will stand, even though there is ample record evidence that would have supported contrary findings." *Hinds*, 2022 UT App 13, ¶ 28 n.4 (cleaned up).

¶23 Rebecka's contention that the district court prioritized geographical continuity at the expense of her historical role as primary caregiver is simply without foundation. Rebecka does not challenge the court's finding that both she and Keenan had "been quite engaged in parenting," even though Rebecka had

"been more heavily involved in direct parenting of the children at home." This led the court to find that Keenan and Rebecka were both "clearly . . . able and willing to be the primary caregiver for these four children." Thus, the court's uncontested finding that both parties had been "quite engaged" in parenting leaves no support for Rebecka's claim that the court ignored her claimed role as the primary caregiver.

¶24 Rebecka's assertion that the court's finding on her moral character was against the clear weight of the evidence is equally without foundation. This contention centers on Rebecka's relationship with another man during the pendency of the divorce proceedings. Rebecka argues, "The court's reliance on [her] new relationship as evidence of poor moral character impermissibly punishes [her] for moving forward with her life during a lengthy divorce proceeding while ignoring that [Keenan] himself is the one who characterized [Rebecka's] conduct negatively to the children." This argument mischaracterizes the court's finding, which stated,

> In today's day and age, to engage in an essentially cohabitating relationship with another individual while a divorce is still pending, and to try and introduce that relationship to children at such a quick pace is a slight moral failing. The Court chooses not to overstate that, and takes [Rebecka's] point about being antiquated, and having old fashioned ideas. The Court finds this factor weighs slightly in favor of Keenan.

The court clearly was not punishing Rebecka for her new relationship or finding that it alone was evidence of poor moral character. Rather, the court found that Rebecka's quick pace in introducing that relationship to the children during the pendency of the divorce resulted in weighing the moral character factor "slightly in favor" of Keenan.

¶25 Rebecka also contends that the court determined that her new relationship was inconsistent with "the church teachings the children were raised with." She asserts that in making this determination, the court "impermissibly interject[ed] religious doctrine into the custody analysis." But Rebecka misreads the court's finding on this matter. The court's finding on the factor of religious compatibility did not rely on Rebecka's new relationship:

> Regarding religious compatibility, it seems that the children have been raised to a degree in the LDS faith, and it is unclear to the Court as to the extent. It appears that [Rebecka] has, for the most part, abandoned practice in that faith and that [Keenan] remains somewhat engaged in practice of that faith. So the Court finds that weighs slightly in favor of [Keenan].

In short, there is no indication that the court injected an analysis of Rebecka's personal conduct into its religious compatibility analysis. Rather, the court arrived at its conclusion by considering which parent was more likely to continue to raise the children in their established faith, and that appeared to be—albeit by narrow margin—Keenan. This conclusion had nothing to do with penalizing Rebecka for her new relationship and everything to do with evidence of ecclesial engagement.

¶26 Rebecka's assertion that the court made no findings on the parties' relative abilities to provide for the educational needs of the children is not consistent with the record. Rebecka points to testimony indicating concerns about Keenan's "educational capacity and [his] family's longstanding resistance to special education services." In contrast, Rebecka speculates that her relocation plan would provide more opportunities for the children's educational development. But the court did make findings about the parties' actual efforts to see to the children's

educational needs: "Both parents agreed to discontinue home schooling, and place the children in public school," where the children appeared "to be significantly improving" and "on their way to thriving." Given this finding, the court concluded that the educational factor weighed "in favor of both parents to the extent that both parents are in favor of public schooling, and they both appear to be supportive of that today." In light of this unchallenged finding, Rebecka's assertion that Keenan's attitude toward education indicated an inability to support the children's educational needs fails to carry the day; she hasn't shown that the court did not conduct a proper best interest analysis regarding the children's educational needs and the ability of either parent to meet those needs.

¶27 Finally, Rebecka asserts that the court failed to address material evidence bearing directly on Keenan's fitness to serve as the primary caregiver. Specifically, she identifies what she alleges was evidence of Keenan's chronic opioid use and fatigue, unsafe living conditions at Keenan's residence, and Keenan's emotional volatility. Once again, Rebecka's claims of error fail because she does not demonstrate how the court's findings are unsupported by the evidence. Concerning opioid use, the court acknowledged that Keenan had been able "to engage with his medical providers" to maintain a dependence level appropriate for pain management. This finding allowed the court to conclude that his use of medication was not presently a "negative factor." As to emotional stability, the court found "no issue with either parent" and concluded that any problems that had arisen were attributable to the stress of the divorce. In light of this finding, the court encouraged both Rebecka and Keenan to continue engaging in therapy. And the court found that while there had "been some evidence of parenting that [was] less than stellar," there was nothing that rose to the level of maltreatment or that would create concerns "regarding health or psychological safety" of the children. In short, the court found that both parents had "demonstrated an understanding [and] responsiveness to meet

the needs of the children regarding their physical, emotional, medical, and other needs," and it did so after considering all of the evidence relevant to this factor.

¶28 In sum, the court's factual findings were not missing, erroneous, or in conflict with the clear weight of the evidence. Accordingly, Rebecka has failed to demonstrate that the court exceeded its discretion in weighing the statutory custody factors.

III. Attorney Fees

¶29 Keenan argues that Rebecka's appeal involved routine matters and that her briefing suffered from multiple deficiencies, rendering her appeal "entirely frivolous." Accordingly, he requests an award of attorney fees. *See* Utah R. App. P. 33(a)–(b) ("[I]f the court determines that . . . appeal taken under these rules is either frivolous or for delay, it will award just damages, which may include . . . reasonable attorney fees, to the prevailing party.. . . [A] frivolous appeal . . . is one that is not grounded in fact, not warranted by existing law, or not based on a good faith argument to extend, modify, or reverse existing law."). But Rebecka has prevailed on one of the issues she raised, so the appeal was certainly not frivolous. We therefore decline Keenan's request.

CONCLUSION

¶30 The district court misapplied the extraordinary-circumstances exception in deciding to award marital property unequally. But its custody determinations did not exceed its discretion. Because Rebecka's appeal was not frivolous, we deny Keenan's request for attorney fees on appeal. Vacated and remanded in part and affirmed in part.