IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHARON HARRIS WOMACK,
Appellant,
vs.
ALBERT LEARNOLD HARRIS WOMACK,
Respondent.

No. 84350-COA

FILED
MAR 15 2023
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART AND REMANDING

Sharon Harris Womack appeals from a district court decree of divorce. Eighth Judicial District Court, Family Division, Clark County; Stacy Michelle Rocheleau, Judge.

In the proceedings below, respondent Albert LeArnold Harris Womack filed a complaint for divorce against Sharon, who filed an answer. The district court then set the matter for a case management conference. At the case management conference, the district court had the parties sworn in, took their testimony, resolved issues relating to the distribution of their community property, and granted a divorce. The district court then entered a written decree of divorce, which required, among other things, that Sharon make a $23,850 payment to Albert to offset a withdrawal that she made from one of her community property retirement accounts. This appeal followed.

This court reviews the district court's division of property for an abuse of discretion. *Schwartz v. Schwartz*, 126 Nev. 87, 90, 225 P.3d 1273, 1275 (2010). On appeal, Sharon challenges the divorce decree, asserting

that the district court violated her due process rights by holding a trial at the time set for the case management conference and depriving her of reasonable notice and an opportunity to be heard on the withdrawal issue as it was not raised in the parties' pleadings. She further contends that the district court's resolution of this issue—by having her make a $23,850 payment to Albert to offset the withdrawal—resulted in the court making an unequal distribution of the parties' community property.

Due process requires reasonable notice and an opportunity to be heard. *Gonzales-Alpizar v. Griffith*, 130 Nev. 10, 20, 317 P.3d 820, 827 (2014). In the present case, the district court issued a notice to appear for a case management conference, which informed the parties of the possibility that the court would resolve the issues presented in this case at the conference, as it was authorized to do when the issues are amenable to immediate resolution. *See* EDCR 5.402(c)(8) (providing that, at the case management conference, the district court may address and, if possible, resolve "[w]hether any or all issues in the case can be immediately settled, resolved, and removed from the field of litigation").[1] However, Sharon did not have prior notice that the withdrawal from her retirement account was among the issues that would potentially be litigated at the case management conference, as the issue was raised for the first time at that conference. Consequently, when the district court resolved the withdrawal issue at the case management conference, it did so solely based on the parties' conflicting testimony without the benefit of any evidence that may

[1]Following entry of the divorce decree, the EDCR were amended, effective June 10, 2022. For clarity, we cite to the pre-2022 version of EDCR 5.402(c)(8), which is the version that was in effect when the district court conducted the case management conference and entered the divorce decree.

have emerged through the discovery process if the case had been permitted to proceed beyond its early stages. Under these circumstances, we cannot say that Sharon received reasonable notice and an opportunity to be heard on the withdrawal issue prior to its resolution. *Gonzales-Alpizar*, 130 Nev. at 20, 317 P.3d at 827. As a result, we conclude that the district court abused its discretion in resolving this issue, *Schwartz*, 126 Nev. at 90, 225 P.3d at 1275, and we therefore reverse the decree of divorce insofar as it required Sharon to pay $23,850 to Albert based on the withdrawal and remand for further proceedings on the withdrawal issue. We affirm the decree in all other respects as Sharon only challenges the district court's resolution of the withdrawal issue on appeal.

It is so ORDERED.[2]



_____, C.J.
Gibbons



_____, J.
Bulla



_____, J.
Westbrook

[2]Insofar as Sharon raises arguments that are not specifically addressed in this order, we have considered them and conclude that they either do not present a basis for relief or need not be reached given our disposition of this appeal.

cc: Hon. Stacy Michelle Rocheleau, District Judge, Family Court Division
Hofland & Tomsheck
Albert LeArnold Harris Womack
Eighth District Court Clerk