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of DUI in Nebraska. The Court of Appeals erred in concluding that a Colorado DWAI conviction could be used to enhance the penalty for a Nebraska DUI. Accordingly, the decision of the Court of Appeals is reversed, and the cause is remanded to the Court of Appeals with directions to remand the cause to the district court with directions to vacate Mitchell's sentence for fourth-offense DUI and to resentence him in accordance with this opinion.

REVERSED AND REMANDED WITH DIRECTIONS.

RICHARD L. MOLCZYK, JR., APPELLANT, V.
KERRIE K. MOLCZYK, APPELLEE.

825 N.W.2d 435

Filed January 25, 2013. No. S-11-1095.

1. **Judgments: Jurisdiction.** A jurisdictional issue that does not involve a factual dispute presents a question of law.
2. **Statutes.** Statutory interpretation presents a question of law.
3. **Judgments: Appeal and Error.** An appellate court independently reviews questions of law decided by a lower court.
4. **Divorce: 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.
5. **Courts: Jurisdiction.** Under the doctrine of jurisdictional priority, when different state courts have concurrent original jurisdiction over the same subject matter, basic principles of judicial administration require that the first court to acquire jurisdiction should retain it to the exclusion of another court. That is, a second court lacks jurisdiction over the same matter involving the same parties.
6. **Dismissal and Nonsuit: Jurisdiction.** An order of dismissal or dismissal by operation of law divests a court of jurisdiction to take any further action in the matter.
7. **Courts: Jurisdiction.** In civil cases, a court of general jurisdiction has inherent power to vacate or modify its own judgment at any time during the term in which the court issued it.
8. **Courts: Dismissal and Nonsuit: Jurisdiction: Pleadings: Motions to Vacate.** A court treats a motion to reinstate a case after an order of dismissal as a motion to vacate the order, and a court normally has jurisdiction over a motion to vacate an order of dismissal and reinstate a case.
9. **Actions: Jurisdiction: Parties: Notice.** A motion to reinstate a dismissed action, of which the opposing party has notice, has jurisdictional priority over a later complaint filed in a different court involving the same subject matter and the same parties.

10. **Juvenile Courts: Jurisdiction: Child Custody.** Under Neb. Rev. Stat. § 25-2740(3) (Reissue 2008), the jurisdiction conferred on a county court to decide custody issues refers to a county court sitting as a juvenile court and provides the juvenile court with concurrent jurisdiction over a custody determination for an adjudicated juvenile, not exclusive jurisdiction.
11. **Courts: Juvenile Courts: Child Custody: Time.** Under Neb. Rev. Stat. § 43-2,113(2) (Reissue 2008), if a juvenile court judge consents to a transfer of a custody case and the district court transfers the case to juvenile court, the case is "filed" with the county court, sitting as a juvenile court, or the separate juvenile court when a certified copy of the district court's transfer order is filed in the juvenile court.
12. **Juvenile Courts: Jurisdiction: Divorce: Child Custody.** Juvenile courts do not acquire jurisdiction over a marital dissolution action or a custody proceeding unless three conditions are met: (1) The juvenile court has already acquired jurisdiction over the parties' child; (2) the juvenile court judge consented to transferring the case to juvenile court; and (3) the district court has issued a transfer order, a certified copy of which has been filed in the county court, sitting as a juvenile court, or in the separate juvenile court.
13. **Trial: Judges: Presumptions: Appeal and Error.** An appellate court presumes in a bench trial that the judge was familiar with and applied the proper rules of law unless it clearly appears otherwise.
14. **Child Support: Rules of the Supreme Court.** Under the Nebraska Child Support Guidelines, unless the minimum support rule applies, a parent's total support, child care, and health care obligations cannot reduce the obligor's net income below the minimum net monthly income for one person that will exceed the federal poverty threshold.
15. **Divorce: Child Support.** In a marital dissolution action, to determine an obligor's net income for calculating support obligations, a court subtracts the following annualized deductions from the obligor's gross income: taxes, FICA, allowable retirement contributions, previous court-ordered child support to other children, and allowable voluntary support payments to other children.
16. **Child Support: Rules of the Supreme Court.** Under the Nebraska Child Support Guidelines, to determine if the obligor's income exceeds the minimum subsistence level, a court deducts the obligor's support obligations that are specified in the guidelines from the obligor's net income.
17. **Divorce: Attorney Fees.** In a marital dissolution action, an award of attorney fees depends on a variety of factors, including the amount of property and alimony awarded, the earning capacity of the parties, and the general equities of the situation.
18. **Property Division.** The ultimate test for the appropriateness of a trial court's division of the marital estate is fairness and reasonableness as determined by the facts of each case.

Appeal from the District Court for Douglas County: JAMES T. GLEASON, Judge. Affirmed.

Phillip G. Wright for appellant.

Amy Sherman, of Sherman & Gilner, P.C., L.L.O., for appellee.

WRIGHT, CONNOLLY, STEPHAN, MCCORMACK, and MILLER-LERMAN, JJ.

CONNOLLY, J.

SUMMARY

In this marital dissolution appeal, we cut through a jurisdictional jungle to determine whether the Douglas County District Court, the Lancaster County District Court, or the Douglas County Juvenile Court had jurisdiction over the action. After the Douglas County District Court dismissed the original dissolution action for lack of prosecution, the appellant, Richard L. Molczyk, Jr., moved to reinstate it. Before the court ruled on Richard's motion, the appellee, Kerrie K. Molczyk, filed a second dissolution action in Lancaster County District Court. At trial, the Douglas County District Court overruled Kerrie's motion to dismiss, concluding that its order to reinstate Richard's action related back to the date that Richard had filed the motion. The court also concluded that it had jurisdiction over the subject matter despite pending juvenile proceedings involving two of the parties' minor children.

On appeal, Richard claims that the court erred in these determinations and lacked jurisdiction. We affirm. We determine that the Douglas County District Court had jurisdictional priority over the Lancaster County District Court. Because the parties did not comply with the procedural requirements for transferring a case to juvenile court, the juvenile court did not have jurisdiction.

BACKGROUND

In March 2010, Richard filed a complaint for dissolution of marriage from Kerrie. The parties were married in 1981 and had seven children, three of whom were minors when the action was commenced. In May, Kerrie filed an answer and countercomplaint for dissolution. In August, a deputy county attorney filed a petition in the Douglas County Juvenile Court, alleging that the juvenile court should adjudicate the parties' 11-year-old son under Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2008) because of his school truancy.

In September 2010, the district court issued a temporary order that, among other things, awarded custody of the parties' minor children to Richard, subject to Kerrie's visitation rights. On October 8, the court issued an order dismissing the action for lack of prosecution. On October 25, Richard moved the court to set aside its dismissal order and reinstate the case. The motion did not state a hearing date, but it was served on Kerrie's counsel. On November 3, Kerrie filed a complaint for dissolution in the Lancaster County District Court. Kerrie admitted in her complaint that Richard had previously filed a dissolution action in Douglas County but alleged that the court had dismissed it. She did not, however, alert the court to Richard's motion to reinstate the dismissed case. On November 4, Richard was served with summons. On November 8, Kerrie served Richard with notice that a hearing on her motion for temporary orders was set for December 3 in the Lancaster County District Court.

On November 12, 2010, in Douglas County, Kerrie's attorney filed a response to Richard's motion to reinstate. In an affidavit, the attorney averred that Kerrie had moved to Lincoln and that she wished to file an action there if the Douglas County District Court dismissed the case. The attorney's affidavit stated that Kerrie would be prejudiced by a reinstatement order because relying on the dismissal, she had forgone trial preparation and had taken action to start the case again. Kerrie's counsel admitted that she knew about Richard's motion to reinstate but argued that Richard had not set a hearing date on the motion until November 9. On November 15, the Douglas County District Court heard Richard's motion, reinstated the original case, and set aside its dismissal order.

In January 2011, the trial began in the Douglas County District Court. On the first day, Kerrie moved to dismiss the action for lack of jurisdiction. She asked the court to take judicial notice of its October 2010 order dismissing Richard's action for lack of prosecution. And she stated that the Lancaster County District Court still had jurisdiction over the action, which was pending. The court reviewed its file and the procedural history. Because Richard's motion to reinstate was

pending when Kerrie filed the second complaint in Lancaster County on November 3, the court concluded that its order reinstating the action related back to the date of Richard's motion to reinstate on October 25. The court concluded that its order reinstating the action predated the filing of Kerrie's second action. It overruled Kerrie's motion to dismiss, and the trial proceeded.

Richard testified that a juvenile proceeding regarding the parties' youngest son was pending before the juvenile court, and the court asked whether it had jurisdiction over him. Richard's attorney stated that the juvenile court would automatically dismiss the case in about 3½ months if there were no further truancy problems. Richard also stated that there was a pending juvenile proceeding regarding the parties' youngest daughter. This proceeding apparently resulted from her minor in possession arrests in April and May 2010. Richard stated that she had been complying with the juvenile court's requirements and that the court had scheduled a final disposition for the following week.

The district court heard testimony on two different dates, January 27 and June 20, 2011. On July 20, before the court entered a decree, Kerrie moved to withdraw her rest and adduce evidence about an incident with the minor children that happened after June 20. Richard responded with a motion to withdraw his rest so the court could conduct an in camera interview of the minor children. The court overruled both motions.

In November 2011, the court issued its dissolution decree. It awarded sole custody of the two children who were still minors to Kerrie, with reasonable visitation, including a summer visitation block, for Richard. It awarded Kerrie child support of $1,327 per month for the two minor children and alimony of $750 per month for 24 months, and then $600 per month for an additional 36 months. It awarded Kerrie $4,000 in attorney fees.

Richard moved for a new trial. Among other things, he asserted that the court had failed to appoint a guardian ad litem for the minor children and had failed to question them about where they wished to live. At the hearing, the court

received Richard's offer of affidavits with statements by the parties' children. It also received Kerrie's offer of a police report about an assault incident involving the minor children and a notice from the Omaha Public Schools about the parties' youngest son's continuing truancy. The court overruled Richard's motion.

ASSIGNMENTS OF ERROR

Richard assigns that the court erred in (1) determining that it had jurisdiction despite the pending dissolution action in Lancaster County and the pending juvenile court proceedings involving two of the minor children; (2) awarding Kerrie sole custody of the minor children or, alternatively, not granting a new trial; (3) awarding Kerrie alimony; (4) failing to equitably divide the marital assets and liability; and (5) awarding Kerrie attorney fees.

STANDARD OF REVIEW

[1-4] A jurisdictional issue that does not involve a factual dispute presents a question of law.[1] Statutory interpretation presents a question of law.[2] We independently review questions of law decided by a lower court.[3] 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.[4]

ANALYSIS

Jurisdictional Priority

[5] We have recognized the doctrine of jurisdictional priority. Under this doctrine, when different state courts have concurrent original jurisdiction over the same subject matter, basic principles of judicial administration require that the first court to acquire jurisdiction should retain it to the exclusion of

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[1] *Strode v. Saunders Cty. Bd. of Equal.*, 283 Neb. 802, 815 N.W.2d 856 (2012).

[2] *Martin v. Ullsperger*, 284 Neb. 526, 822 N.W.2d 382 (2012).

[3] *Blakely v. Lancaster County*, 284 Neb. 659, 825 N.W.2d 149 (2012).

[4] *Marcovitz v. Rogers*, 267 Neb. 456, 675 N.W.2d 132 (2004).

another court.[5] That is, a second court lacks jurisdiction over the same matter involving the same parties.[6]

Under Neb. Rev. Stat. § 42-348 (Reissue 2008), a plaintiff can commence a marital dissolution action in the district court of any county in which one of the parties resides. Kerrie had moved to Lincoln before filing her action in Lancaster County District Court, and Richard continued to live in Douglas County. So the district courts of either county could have exercised jurisdiction over a dissolution action between them. The question that we must resolve is this: Does a motion to reinstate a dismissed complaint for marital dissolution in one county divest another court of jurisdiction over a later complaint filed in a different county?

[6-8] An order of dismissal or dismissal by operation of law divests a court of jurisdiction to take any further action in the matter.[7] But in civil cases, a court of general jurisdiction has inherent power to vacate or modify its own judgment at any time during the term in which the court issued it.[8] A court treats a motion to reinstate a case after an order of dismissal as a motion to vacate the order,[9] and we have recognized that a court normally has jurisdiction over a motion to vacate an order of dismissal and reinstate a case.[10]

[9] It is true that a court has discretion to deny a motion to vacate a case.[11] But we conclude that for applying principles of judicial administration, a motion to reinstate an action should

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[5] See, e.g., *Washington v. Conley*, 273 Neb. 908, 734 N.W.2d 306 (2007); *Holste v. Burlington Northern RR. Co.*, 256 Neb. 713, 592 N.W.2d 894 (1999).

[6] See *In re Estate of Kentopp*, 206 Neb. 776, 295 N.W.2d 275 (1980).

[7] See, *Davis v. Choctaw Constr.*, 280 Neb. 714, 789 N.W.2d 698 (2010); *Reid v. Evans*, 273 Neb. 714, 733 N.W.2d 186 (2007); 27 C.J.S. *Dismissal and Nonsuit* § 14 (2009).

[8] See *Destiny 98 TD v. Miodowski*, 269 Neb. 427, 693 N.W.2d 278 (2005).

[9] See, *Hornig v. Martel Lift Systems*, 258 Neb. 764, 606 N.W.2d 764 (2000); *Roemer v. Maly*, 248 Neb. 741, 539 N.W.2d 40 (1995).

[10] See *State v. Smith*, 269 Neb. 773, 696 N.W.2d 871 (2005), citing *R. V. R. R. Co. v. McPherson*, 12 Neb. 480, 11 N.W. 739 (1882).

[11] See, e.g., *Talkington v. Womens Servs.*, 256 Neb. 2, 588 N.W.2d 790 (1999).

be treated the same as the commencement of an action. Judicial administration principles require the elimination of unnecessary litigation and the promotion of judicial efficiency and economy.[12] Courts enforce the jurisdictional priority doctrine to promote judicial comity and avoid the confusion and delay of justice that would result if courts issued conflicting decisions in the same controversy.[13] Under these principles, we hold that a motion to reinstate a dismissed action, of which the opposing party has notice, has jurisdictional priority over a later complaint filed in a different court involving the same subject matter and the same parties.

A motion to reinstate a dismissed case might raise other concerns if the opposing party had commenced a new action without notice that the motion to reinstate had been filed. But court filings are generally effective when filed,[14] and the record shows that Richard gave notice of his motion. We conclude that the Douglas County District Court obtained jurisdiction on the date that Richard filed his motion to reinstate the dismissed action. Thus, the Douglas County District Court has exclusive concurrent jurisdiction over the matter and the Lancaster County Court lacked jurisdiction to proceed in the second action.

Pending Juvenile Proceedings Did Not Deprive the District Court of Jurisdiction

As stated, Richard raises a second jurisdictional argument. He claims that the district court lacked jurisdiction to decide the custody of the two minor children because of pending juvenile proceedings involving them. At oral arguments, we questioned whether the juvenile proceedings are still pending because the record suggests that the court has probably terminated the cases and the issue is moot. But Richard's counsel did not clarify the mootness issue. So we explain

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[12] See *In re Estate of Kentopp, supra* note 6.

[13] See *Plant Insulation Co. v. Fibreboard Corp.*, 224 Cal. App. 3d 781, 274 Cal. Rptr. 147 (1990).

[14] See *Johnson v. Johnson*, 282 Neb. 42, 803 N.W.2d 420 (2011).

why the juvenile proceedings did not deprive the district court of jurisdiction.

Section 43-247 of the Nebraska Juvenile Code is the primary statute, but not the only statute, setting out a juvenile court's jurisdiction. In the first paragraph of § 43-247, the Legislature has broken down a juvenile court's jurisdiction into exclusive or concurrent classifications depending on the type of adjudication at issue. Section 43-247 provides that a juvenile court has "exclusive original jurisdiction" over "any juvenile defined in subdivision (3) of this section, and as to the parties and proceedings provided in subdivisions (5), (6), and (8) of this section." The term "[p]arties" is defined to mean "the juvenile . . . and his or her parent, guardian, or custodian."[15] Under subsection (5), the juvenile court has jurisdiction over "[t]he parent, guardian, or custodian of any juvenile described in this section." So for adjudications under subsection (3), a juvenile court has exclusive jurisdiction over the juvenile and his or her parent, guardian, or custodian.

In *In re Guardianship of Rebecca B. et al.*,[16] a 2000 case, we held that when a juvenile court has assumed exclusive jurisdiction over a juvenile under § 43-247(3), a county court lacks jurisdiction to conduct a guardianship proceeding for the juvenile. We recognized that the Legislature has given county courts concurrent jurisdiction with juvenile courts over guardianship proceedings. But we held that a county court's jurisdiction must yield to the juvenile court's exclusive jurisdiction for a juvenile adjudicated under subsection (3).

Later, in *Ponseigo v. Mary W.*,[17] we held that a district court lacks jurisdiction to hear a grandparent visitation action after the juvenile court has obtained exclusive jurisdiction over the grandchild through an adjudication under § 43-247(3). But as the Nebraska Court of Appeals has explained, after this holding, the Legislature amended § 43-247.[18]

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[15] Neb. Rev. Stat. § 43-245(15) (Cum. Supp. 2012).

[16] *In re Guardianship of Rebecca B. et al.*, 260 Neb. 922, 621 N.W.2d 289 (2000).

[17] *Ponseigo v. Mary W.*, 267 Neb. 72, 672 N.W.2d 36 (2003).

[18] See *In re Interest of Ethan M.*, 18 Neb. App. 63, 774 N.W.2d 766 (2009).

The Legislature was apparently concerned that district courts had interpreted our decision in *Ponseigo* to mean that they did not have jurisdiction to decide the custody of children who were subject to a juvenile court's exclusive jurisdiction. So in 2008, the Legislature enacted L.B. 280,[19] which was intended to expand the juvenile court's jurisdiction to include custody determinations for juveniles whom the court has adjudicated under § 43-247(3).[20] The Legislature was concerned that such a child's custody could remain in limbo in a custody dispute because the juvenile court had no authority to determine custody disputes and the district court believed it lacked jurisdiction to do so.

Thus, the Legislature amended some statutes related to a juvenile court's jurisdiction to give juvenile courts authority to decide custody disputes over adjudicated children. In the following statutes, the italicized language represents the amended language that the Legislature added.

L.B. 280 amended § 43-247(11) to give juvenile courts concurrent original jurisdiction over a "paternity *or custody* determination for a child over which the juvenile court already has jurisdiction." It also amended Neb. Rev. Stat. § 24-517(7) (Cum. Supp. 2012) to give county courts "[c]oncurrent original jurisdiction with the district court in domestic relations matters as defined in section 25-2740 and with the district court and separate juvenile court in paternity *or custody* determinations as provided in section 25-2740."

Richard relies on Neb. Rev. Stat. § 25-2740(3) (Reissue 2008), the language of which was also amended in 2008 by L.B. 280. Section 25-2740(1) defines "[d]omestic relations matters" to include proceedings under "sections 42-347 to 42-381," which include proceedings for "dissolution, separation, annulment, custody, and support." It further defines "custody determinations" to mean "proceedings to determine custody of a child under section 42-364." Section 25-2740(2) and (3) set out the following jurisdiction rules:

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[19] See 2008 Neb. Laws, L.B. 280.

[20] See *In re Interest of Ethan M., supra* note 18.

> (2) Except as provided in subsection (3) of this section, in domestic relations matters, a party shall file his or her petition or complaint and all other court filings with the clerk of the district court. The party shall state in the petition or complaint whether such party requests that the proceeding be heard by a county court judge or by a district court judge. . . . Such proceeding is considered a district court proceeding, even if heard by a county court judge . . . .
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> (3) In addition to the jurisdiction provided for paternity *or custody* determinations under subsection (2) of this section, a county court or separate juvenile court which already has jurisdiction over the child whose paternity *or custody* is to be determined has jurisdiction over such paternity *or custody* determination.

[10] Under § 25-2740(3), the jurisdiction conferred on a county court to decide custody issues clearly refers to a county court sitting as a juvenile court because the court must have already obtained jurisdiction over the child. But § 25-2740(3) provides a juvenile court with concurrent jurisdiction over a custody determination for an adjudicated juvenile, not exclusive jurisdiction. This reading of § 25-2740(3) is consistent with § 43-245(8) of the juvenile code, which provides that "[n]othing in the Nebraska Juvenile Code shall be construed to deprive the district courts of their habeas corpus, common-law, or chancery jurisdiction or the county courts and district courts of jurisdiction of domestic relations matters as defined in section 25-2740."

Moreover, reading § 25-2740(3) consistently with other statutes on the subject shows that the Legislature did not give juvenile courts original jurisdiction over dissolution actions. It is true that § 24-517(7) gives county courts concurrent original jurisdiction with the district courts over domestic relations matters, which includes dissolutions. But the jurisdiction conferred on a separate juvenile court or county court sitting as a juvenile court is more limited. Section 42-348 of the marital dissolution statutes provides the following:

> All proceedings under sections 42-347 to 42-381 [domestic relations actions] shall be brought in the district

> court of the county in which one of the parties resides. Proceedings *may* be transferred to a separate juvenile court or county court sitting as a juvenile court which has acquired jurisdiction pursuant to section 43-2,113. Certified copies of orders filed with the clerk of the court pursuant to such section shall be treated in the same manner as similar orders issued by the court.

Under Neb. Rev. Stat. § 43-2,113 (Reissue 2008), the Legislature clearly intended that a separate juvenile court or a county court sitting as a juvenile court could acquire jurisdiction over dissolution proceedings only if the court has already adjudicated the parties' child *and* other specified conditions are met:

> (2) A juvenile court created in a separate juvenile court judicial district or a county court sitting as a juvenile court in all other counties shall have and exercise jurisdiction within [its district] with the county court and district court in all matters arising under Chapter 42, article 3, when the care, support, custody, or control of minor children under the age of eighteen years is involved. *Such cases shall be filed in the county court and district court and may, with the consent of the juvenile judge, be transferred to the docket of the separate juvenile court or county court*.

Although the second sentence in § 43-2,113(2) refers to a county court, when this sentence is read consistently with the first sentence, the Legislature obviously meant a county court sitting as a juvenile court. Moreover, § 43-2,113 is part of a group of statutes specifically addressing separate juvenile courts.[21]

The problem is that the second sentence does not clarify who should "file" a case with the county court. And we cannot read this sentence to require a party to commence a dissolution action in both the district court and the county court if the juvenile court has previously acquired jurisdiction over one of the parties' children and the party wishes the juvenile court to decide the custody issues. This interpretation would

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[21] See Neb. Rev. Stat. §§ 43-2,111 to 43-2,127 (Reissue 2008).

obviously lead to jurisdictional confusion or duplication, and we try to avoid a statutory construction that would lead to an absurd result.[22] Equally important, requiring parties to file a dissolution action in county court is inconsistent with § 42-348, which requires all dissolution actions to be filed in district court.

[11] Instead, we believe that the answer lies in § 42-348. As noted, § 42-348 provides that "[c]ertified copies of orders filed with the clerk of the court pursuant to [§ 43-2,113] shall be treated in the same manner as similar orders issued by the court." So we construe the requirement in § 43-2,113(2) that these "cases shall be filed in the county court and district court" to mean that a party must file an action or proceeding to resolve custody disputes in district court, which can lead to a transfer to the juvenile court if a party obtains the juvenile court judge's consent to a transfer. Under § 43-2,113(2), if a juvenile court judge consents to a transfer and the district court transfers the case to juvenile court, the case is "filed" with the county court, sitting as a juvenile court, or the separate juvenile court when a certified copy of the district court's transfer order is filed in the juvenile court.

[12] Under this construction, §§ 42-348 and 43-2,113(2) give a county court, sitting as a juvenile court, or a separate juvenile court concurrent jurisdiction over dissolutions or custody determinations only if specified procedures are followed. Juvenile courts do not acquire jurisdiction over a marital dissolution action or a custody proceeding unless three conditions are met: (1) The juvenile court has already acquired jurisdiction over the parties' child; (2) the juvenile court judge consented to transferring the case to juvenile court; and (3) the district court has issued a transfer order, a certified copy of which has been filed in the county court, sitting as a juvenile court, or in the separate juvenile court.

As stated, L.B. 280 amended § 43-247(11) to give juvenile courts concurrent original jurisdiction over a custody determination for a child whom the juvenile court already has jurisdiction. But when read consistently with §§ 42-348

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[22] See *City of North Platte v. Tilgner*, 282 Neb. 328, 803 N.W.2d 469 (2011).

and 43-2,113(2), the juvenile court cannot acquire jurisdiction over a custody determination unless a party has previously filed a complaint for a dissolution or a custody modification in district court. Because a juvenile court does not have concurrent, *original* jurisdiction over a dissolution action or custody dispute in the sense that a party can commence an action or proceeding in that court, the jurisdictional priority doctrine does not apply. Here, the record does not show that the parties complied with the procedural requirements for transferring the dissolution action to the juvenile court. So the pending juvenile proceedings involving the parties' minor children did not affect the district court's jurisdiction to decide the custody issues.

The Court Did Not Abuse Its Discretion

Regarding the actual decree, Richard contends that the court abused its discretion in dividing the marital estate and awarding Kerrie custody, alimony, and attorney fees. He first argues that the court failed to consider the best interests factors for custody determinations or the wishes of the minor children. He premises his argument on the court's language in the decree. In the decree, the court stated that "[Kerrie] is a fit and proper person to be awarded the sole care, custody and control of the two minor children of the parties." Because the court did not state that Kerrie's custody of the children was in their best interests, Richard argues that the decree shows the court failed to consider their interests.

[13] We disagree. We presume in a bench trial that the judge was familiar with and applied the proper rules of law unless it clearly appears otherwise.[23] Under those rules, there was ample evidence to support the court's custody determination. It would unduly lengthen this opinion and add little to our jurisprudence to detail the parties' parental shortcomings. It is sufficient to say the evidence showed that Kerrie had been the children's primary caretaker and that Richard's temporary custody of them had not been in their best interests.

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[23] *Hofferber v. Hastings Utilities*, 282 Neb. 215, 803 N.W.2d 1 (2011).

The court did not abuse its discretion in awarding Kerrie sole custody.

[14] Nor did the court abuse its discretion in awarding Kerrie alimony and attorney fees. We reject Richard's claim that the court's award of alimony left him with income below the poverty threshold. Under the Nebraska Child Support Guidelines, unless the minimum support rule applies,[24] a parent's total support, child care, and health care obligations cannot reduce the obligor's net income below the minimum net monthly income for one person that will exceed the federal poverty threshold.[25] Currently, the guidelines set the minimum subsistence level at $931,[26] and Richard does not contest that level.

[15,16] In a marital dissolution action, to determine an obligor's net income for calculating support obligations, a court subtracts the following annualized deductions from the obligor's gross income: taxes, FICA, allowable retirement contributions, previous court-ordered child support to other children, and allowable voluntary support payments to other children.[27] Under the Nebraska Child Support Guidelines, to determine if the obligor's income exceeds the minimum subsistence level, a court deducts the obligor's support obligations that are specified in the guidelines from the obligor's net income.[28]

The record shows that Richard's gross monthly income was $7,607 and his net income was $4,916. Richard's support obligations totaled $2,077. So after deducting his support obligations, Richard's remaining income was $2,839, well above the minimum subsistence level. Moreover, the parties were married for almost 30 years, and for many of these years, Kerrie stayed at home to care for their seven children. The court did not abuse its discretion in awarding Kerrie alimony.[29]

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[24] See Neb. Ct. R. § 4-209.

[25] See Neb. Ct. R. § 4-218 (rev. 2012).

[26] See *id*.

[27] See Neb. Ct. R. § 4-205.

[28] See *Gress v. Gress*, 274 Neb. 686, 743 N.W.2d 67 (2007).

[29] See *Schaefer v. Schaefer*, 263 Neb. 785, 642 N.W.2d 792 (2002).

[17] Similarly, the court did not abuse its discretion in awarding Kerrie attorney fees. In a marital dissolution action, an award of attorney fees depends on a variety of factors, including the amount of property and alimony awarded, the earning capacity of the parties, and the general equities of the situation.[30] The court awarded Kerrie $4,000 in attorney fees, and the record showed that she had incurred over $11,000 in attorney fees. In contrast to Richard's income, the record showed that Kerrie earned a monthly gross salary of $1,776 and a monthly net salary of $1,529.

[18] Finally, the ultimate test for the appropriateness of a trial court's division of the marital estate is fairness and reasonableness as determined by the facts of each case.[31] After reviewing the record, we conclude that the court did not abuse its discretion in dividing the marital assets and liabilities.

CONCLUSION

We conclude that Richard invoked the jurisdiction of the Douglas County District Court by moving to reinstate the dismissed action before Kerrie filed a second action in Lancaster County. Because Kerrie had notice of his motion, we conclude that the Douglas County District Court was reinvested with jurisdiction over the matter and that Kerrie could not initiate a new action in a different court until after the court ruled on Richard's motion to reinstate.

We conclude that the pending juvenile proceedings involving the parties' two minor children did not prevent the district court from exercising jurisdiction over the custody issues in the dissolution action. The parties did not comply with the procedural requirements for transferring the case to juvenile court.

Finally, the district court did not abuse its discretion in awarding Kerrie custody, alimony, and attorney fees. Nor did it abuse its discretion in dividing the marital estate.

AFFIRMED.

HEAVICAN, C.J., participating on briefs.

CASSEL, J., not participating.

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[30] See *id*.

[31] See *Gangwish v. Gangwish*, 267 Neb. 901, 678 N.W.2d 503 (2004).