MEMORANDUM DECISION

ATTORNEYS FOR APPELLANT

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IN THE COURT OF APPEALS OF INDIANA

Ronnie Ryan Price,
Appellant-Petitioner,

v.

Joanne Michelle Downs,
Appellee-Respondent

November 29, 2023

Court of Appeals Case No. 23A-DN-1290

Appeal from the Rush Circuit Court

The Honorable David E. Northam, Judge

Trial Court Cause No. 70C01-2009-DN-249

Memorandum Decision by Judge Crone
Judges Riley and Mathias concur.

Crone, Judge.

Case Summary

[1] Ronnie Ryan Price (Husband) appeals the decree dissolving his marriage to Joanne Michelle Downs (Wife). Husband's sole assertion on appeal is that the trial court abused its discretion in unequally dividing the marital property. Finding no abuse of discretion, we affirm.

Facts and Procedural History

[2] Husband and Wife were married on April 22, 2019. After seventeen months, the parties separated, and Husband filed a petition for dissolution of marriage on September 25, 2020. No children were born of the marriage. A final dissolution hearing was held on April 17, 2023. Thereafter, the trial court issued its decree of dissolution and property division. The court found that an equal division of property would not be just and reasonable due to the short duration of the parties' marriage, Husband's very limited contribution to the parties' income and accumulation of assets,[1] and that "[a]ll of Wife's assets, unless specifically referred to [in the trial court's order], were accumulated by Wife prior to the marriage or through inheritance." Appealed Order at 2. Husband was awarded the residence he owned prior to the marriage, bank accounts held in his individual name, several vehicles, and the personal property in his possession. Wife received the marital residence, where she continues to reside with her three children, bank accounts held in her individual name, retirement

[1] Husband testified that he contributed "nothing over $10,000" to the parties' expenses during the time they owned the marital residence. Tr. Vol. 2 at 61.

accounts held in her individual name, two vehicles, and the personal property in her possession. Due to the disparity in income and property between Husband and Wife, the trial court ordered Wife to pay $5,000 and $2,500 respectively for Husband's attorney fees for the dissolution and his attorney fees for pursing contempt orders. This appeal ensued.

Discussion and Decision

[3] Before addressing Husband's arguments, we must note that Wife did not file an appellee's brief. When an appellee fails to submit a brief, we do not undertake the burden of developing arguments, and we apply a less stringent standard of review, that is, we may reverse if the appellant establishes prima facie error. *Zoller v. Zoller*, 858 N.E.2d 124, 126 (Ind. Ct. App. 2006). "Prima facie is defined as 'at first sight, on first appearance, or on the face of it.'" *Graziani v. D & R Constr.*, 39 N.E.3d 688, 690 (Ind. Ct. App. 2015). "This rule was established so that we might be relieved of the burden of controverting the arguments advanced in favor of reversal where that burden properly rests with the appellee." *Bixler v. Delano*, 185 N.E.3d 875, 877-78 (Ind. Ct. App. 2022). Still, we are obligated to correctly apply the law to the facts in the record in order to determine whether reversal is required. *Jenkins v. Jenkins*, 17 N.E.3d 350, 352 (Ind. Ct. App. 2014).

[4] Husband appeals the trial court's division of marital property. We apply a strict standard of review to a court's division of property upon dissolution. *Smith v. Smith*, 854 N.E.2d 1, 5 (Ind. Ct. App. 2006). "The division of marital assets is a

matter within the sound discretion of the trial court." *Id*. "The party challenging the trial court's property division bears the burden of proof." *Id*. That party must overcome a strong presumption that the dissolution court correctly followed the law and made all the proper considerations when dividing the property. *Id*. at 5-6. Thus, we will reverse a trial court's property distribution only if there is no rational basis for the award. *Id*.

[5] Husband specifically asserts that the trial court abused its discretion in unequally dividing the marital estate and in concluding that Wife rebutted the presumption of an equal division of marital property. The division of marital property is a two-step process in Indiana. *Estudillo v. Estudillo*, 956 N.E.2d 1084, 1090 (Ind. Ct. App. 2011). First, the trial court determines what property must be included in the marital estate. *Id*. After deciding what constitutes marital property, the trial court must then divide the marital property under the presumption that an equal split is just and reasonable. Ind. Code § 31-15-7-5. This presumption may be rebutted by evidence, including evidence of the following factors, that an equal division would not be just and reasonable:

> (1) The contribution of each spouse to the acquisition of the property, regardless of whether the contribution was income producing.
>
> (2) The extent to which the property was acquired by each spouse:
>
> (A) before the marriage; or

(B) through inheritance or gift.

(3) The economic circumstances of each spouse at the time the disposition of the property is to become effective, including the desirability of awarding the family residence or the right to dwell in the family residence for such periods as the court considers just to the spouse having custody of any children.

(4) The conduct of the parties during the marriage as related to the disposition or dissipation of their property.

(5) The earnings or earning ability of the parties as related to:

(A) a final division of property; and

(B) a final determination of the property rights of the parties.

Id.

[6] In dividing marital property, the trial court must consider all these factors, but it is not required to explicitly address all the factors in every case. *Eye v. Eye*, 849 N.E.2d 698, 701-02 (Ind. Ct. App. 2006). To the contrary, we presume that the trial court considered these factors. *Hatten v. Hatten*, 825 N.E.2d 791, 794 (Ind. Ct. App. 2005), *trans. denied*. This is one of the strongest presumptions applicable to our consideration on appeal. *Id*.

[7] The trial court here entered findings sua sponte.

> In such a situation, the specific factual findings control only the issues that they cover, while a general judgment standard applies to issues upon which there are no findings. It is not necessary

> that each and every finding be correct, and even if one or more findings are clearly erroneous, we may affirm the judgment if it is supported by other findings or is otherwise supported by the record. We may affirm a general judgment with sua sponte findings upon any legal theory supported by the evidence introduced at trial. Although sua sponte findings control as to the issues upon which the court has found, they do not otherwise affect our general judgment standard of review, and we may look both to other findings and beyond the findings to the evidence of record to determine if the result is against the facts and circumstances before the court.

Stone v. Stone, 991 N.E.2d 992, 998 (Ind. Ct. App. 2013) (citations omitted).

[8] Husband asserts that the trial court's findings in support of its deviation from an equal division of marital property are not supported by the record. We begin by noting that it is well established that the trial court may consider the length of the parties' marriage in dividing the marital pot. *Roetter v. Roetter*, 182 N.E.3d 221, 227 (Ind. 2022). "A short-lived marriage may rebut the presumption favoring equal division, especially if one party brought substantially more property into the marriage." *Id*. Husband concedes that the parties' marriage was of "relatively short duration," but he maintains that this factor is meaningless absent proof that Wife brought "a disparate amount of money and/or property into the short-lived marriage." Appellant's Br. at 15. Our review of the record reveals ample evidence that Wife did exactly that.

[9] The crux of Husband's argument revolves around the trial court's finding that the lion's share of the marital assets, specifically the money in bank accounts held in Wife's name, was accumulated by Wife prior to the marriage and/or

through inheritance. Husband waxes poetic that Wife, who failed to respond to discovery requests and who was unrepresented at the final hearing, failed to present any evidence of how or when these financial assets were acquired so as to rebut the presumption of an equal division of property.[2] We agree with Husband that, as a general proposition, the party seeking to rebut the presumption of equal division bears the burden of proof of doing so. *Smith v. Smith*, 136 N.E.3d 275, 282 (Ind. Ct. App. 2019). However, in this case, the evidence submitted by Husband alone, and the reasonable inferences to be drawn therefrom, was sufficient to rebut the presumption of an equal division. Indeed, during his testimony, Husband made it crystal clear that Wife brought substantial financial assets into the marriage, describing Wife as quite "wealthy" and a "millionaire" due to money given to her by her family. Tr. Vol. 2 at 51, 57.[3] The parties "lived" off Wife's money from "her" bank

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[2] Husband sought to hold Wife in contempt for her failure to respond to discovery. During the final hearing, Wife expressed remorse, explaining that she was incapable of doing anything "mentally, emotionally, [or] physically" after her marriage to Husband ended so "traumatically." Tr. Vol. 2 at 62. She stated that she "did not follow through with the discovery questions" because she "was in extensive counseling to deal with the trauma and the emotional stress[,]" and she simply could not "reopen" that trauma by "going through those questions." *Id.* at 63-64. In its order, the trial court declined to find Wife in contempt, noting that "Wife acknowledges her failure to comply with various Court Orders due to a variety of circumstances during this period. Court finds the property that Husband is receiving under this Decree should more than make up for any loss [to] Husband." Appealed Order at 6.

[3] Husband asserts that "the record does not demonstrate that any assets of the marriage were owned by Wife prior to the marriage or were inherited." Appellant's Br. at 12. We disagree. Although specificity is admittedly lacking in this regard, both Husband's and Wife's testimony make clear that Wife's bank accounts, which included the money that was used to purchase the marital residence and to pay for the bulk of the parties' marital expenses, were assets obtained from Wife's family. As for exactly how the money in those accounts was acquired, Wife indicated during closing argument that she acquired the money through inheritance. Although Husband objected to her elaborating on that statement, and the trial court sustained that objection, the trial court had already indicated that it was granting Wife some "leeway" in her presentation of evidence because she was not represented by counsel. Tr. Vol. 2 at 63. It was the trial court's prerogative to credit this testimony.

accounts. *Id*. at 47, 51. Husband further conceded that he was "super ill" and was not able to substantially contribute to the parties' acquisition of any marital assets or to their financial well-being during the marriage. *Id*. at 61. In short, under the circumstances presented, we have little difficulty concluding that there was sufficient evidence to rebut the presumption of an equal division of marital property.

[10] Still, Husband baldly asserts that the trial court improperly "set aside, or systematically excluded" certain property from the marital estate. Appellant's Br. at 13. Husband argues that the trial court improperly excluded property that it "believed was pre-marital property or property that was inherited by Wife." *Id*. However, in making this argument, Husband does not point to any specific asset that he claims was improperly excluded from the marital estate. Consequently, he has waived our review of this issue. *See* Ind. Appellate Rule 46(A)(8)(a) (noting that each contention in appellant's brief must be supported by cogent reasoning and citations to the record); *Schwartz v. Schwartz*, 773 N.E.2d 348, 353 n.5 (Ind. Ct. App. 2002) (failure to make cogent argument as required by Rule 46(A)(8)(a) results in waiver of issue on appeal).

[11] Waiver notwithstanding, our review of the record reveals no such abuse of discretion. "While the trial court may decide to award a particular asset solely to one spouse as part of its just and reasonable property division, it must first include the asset in its consideration of the marital estate to be divided." *Falatovics v. Falatovics*, 15 N.E.3d 108, 110 (Ind. Ct. App. 2014). Here, the record indicates that the trial court included all of Wife's premarital and/or

inherited property in the marital pot before then awarding that property to Wife in its property division. This was entirely reasonable under the circumstances, and we find no abuse of discretion. *See Randolph v. Randolph*, 210 N.E.3d 890, 900 (Ind. Ct. App. 2023) (citing Ind. Code § 31-15-7-5) (after including all assets in marital pot, trial court may then award particular asset to one party as part of its division of marital estate).

[12] Finally, Husband suggests that we must reverse because the property division here "is shocking on its face insofar as Wife received approximately 93% of the marital estate[,]" which had an estimated value of well over a million dollars. Appellant's Br. at 15. Assuming that Husband's percentage calculation is correct, we think this record more than supports such a disparate property division. Indeed, it appears to us, as it likely appeared to the trial court, that Husband is simply trying to receive a windfall from a short marriage to a wealthy woman and to which his financial contributions were minimal at best. In sum, we find no error, prima facie or otherwise. Because the result reached by the trial court here is not against the facts and circumstances before it, we affirm.

[13] Affirmed.

Riley, J., and Mathias, J., concur.