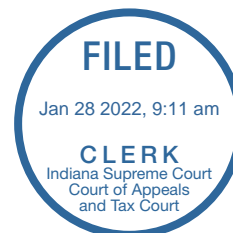


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

Stacey Curtiss,
Appellant-Respondent,

v.

Robert Curtiss,
Appellee-Petitioner.

January 28, 2022

Court of Appeals Case No.
21A-DC-723

Appeal from the St. Joseph Circuit
Court

The Honorable John E. Broden,
Judge

Trial Court Cause No.
71C01-1801-DC-48

Weissmann, Judge.

[1] The Curtisses were both spouses and business partners. When the two divorced, their business became part of the marital estate subject to division. Following the presentation of what the trial court described as a “morass” of evidence, the court awarded Robert Curtiss (Husband) all business assets and liabilities. Stacey Curtiss (Wife) now appeals, arguing that she was entitled to half the business income made during the divorce. Finding that Wife failed to establish that the trial court erred, we affirm.

Facts

[2] Husband and Wife were married on July 10, 2003. For the next fourteen years, they lived together as husband and wife. They were also business partners. Together they owned and operated Great Lakes WaterJet, Inc., d/b/a Curtiss Knives, Specialty Knife Parts (Curtiss Knives). The couple separated in November 2017, and Husband filed for divorce in January 2018.

[3] Almost three years later, the trial court divided the Curtisses’ assets. The court awarded Husband a net of \$218,837 in assets and liabilities, including those of Curtiss Knives. The court awarded Wife a net of \$283,179. A promissory note to James St. Clair, Wife’s father, was among her liabilities. The trial court valued the promissory note at \$68,849, its value at the date of the divorce filing. The trial court determined that the “significant disparity in earnings power” justified a modest deviation from a 50/50 split in Wife’s favor. Supp. App. Vol. II, p. 10. The trial court also declined to order a cash distribution of business

income from Curtiss Knives, as “the evidence related to the business income was frankly a morass.” *Id.* at 11.

- [4] Wife filed a motion to correct errors. She argued that the promissory note was undervalued and she was owed some portion of the business income Curtiss Knives earned while the divorce was pending. The trial court denied the motion on both issues. Wife now appeals, making the same arguments.

Discussion and Decision

- [5] A trial court has broad discretion in dividing the marital estate, including determining the valuation date for marital assets. *Goodman v. Goodman*, 94 N.E.3d 733, 742 (Ind. Ct. App. 2018); *McGrath v. McGrath*, 948 N.E.2d 1185, 1187 (Ind. Ct. App. 2011). We reverse only if the trial court abuses that discretion. *Goodman*, 94 N.E.3d at 742. Wife, as the party challenging the division of the marital estate, must overcome one of the strongest presumptions applicable on appeal that the trial court considered and complied with the relevant statute. *Id.* Here, that statute requires the trial court to divide property “in a just and reasonable manner.” Indiana Code § 31-15-7-4. We will neither reweigh evidence nor assess the credibility of witnesses and consider only the evidence most favorable to the ordered division. *Goodman*, 94 N.E.3d at 742.

I. Promissory Note

- [6] Wife first argues that the trial court erred in valuing the promissory note to her father on the date Husband filed for divorce, rather than the date of trial. When Husband filed for divorce, the debt was \$68,849. On the date of trial, the debt

had risen to \$94,809.11 due to late fees and interest. A trial court may choose any valuation date for marital assets between the filing date and the date of the final hearing. *McGrath*, 948 N.E.2d 1185, 1187 (Ind. 2011).

[7] In this case, Wife fails to demonstrate an abuse of discretion in the court's selection of a lower valuation for the debt owed to her father. The court heard evidence that Wife and her father are close, Wife stole money from the marital estate and hid it in her father's bank account, and her father has not sued to enforce the promissory note despite lack of payment during the divorce. *Tr. Vol. II*, pp. 112, 109, 147. Accordingly, Wife's argument seeking a different valuation date for this marital liability constitutes an improper request for us to reweigh evidence. *See Goodman*, 94 N.E.3d at 742. The trial court did not abuse its discretion in choosing the date of filing as the promissory note's valuation date.

[8] Wife also argues that Husband refused to make payments on the note and kept business income from Wife, preventing her from making payments. But Wife has waived these claims by failing to support them with citations to the record. *See Ind. Appellate Rule 46(A)(8)(a)* ("Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on."); *see also Crider v. Crider*, 15 N.E.3d 1042, 1072 (Ind. Ct. App. 2014) (finding issue waived for failure to make a cogent argument), *trans. denied*.

II. Business Income

[9] Next, Wife argues that she is owed one half of the business income of Curtiss Knives because the company was a marital asset. She claims that Husband kept this asset from her and used the business income to enrich himself, despite a provisional trial court order directing the parties to split the business income after paying their expenses. Supp. App. Vol. II, p. 2. Wife alleges that Husband owes her \$146,988.10 of business income; yet the court awarded her nothing.

[10] Again, Wife's argument suffers because she fills her brief with unsupported allegations against Husband. Additionally, Wife's assessment of her share of the business income is based on a crude calculation of his personal expenses over two years. Exh. Vol. IV, p. 111. We stress that personal expenditures and business income are different things that reveal little about each other.¹

Altogether, Wife's numbers abstractly suggest impropriety. This is insufficient to rebut the presumption that the court divided the property in a just and reasonable manner. *See Goodman*, 94 N.E.3d at 742.

[11] Wife's second argument also asks us to reweigh evidence and assess witness credibility, which we will not do. *See id.* The parties presented conflicting

¹ Merriam-Webster defines "business income" as "the income of a business from current production as sometimes distinguished from incidental or extraneous income (as from the investments of a manufacturer)." *Business income*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/business%20income> (last accessed Jan. 13, 2022). Merriam-Webster defines "personal expense" as "an expense incurred in the course of one's personal affairs as distinguished from the course of one's employment or the operation of a business." *Personal expense*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/expense#legalDictionary> (last accessed Jan. 13, 2022).

evidence about business income. Wife argues that the business had hundreds of thousands of dollars in income to distribute. Husband's accountant testified that the business was operating at a loss by 2020. Tr. Vol. II, p. 49. In declining to distribute business income to Wife, the trial court impliedly sided with Husband. Wife has not convinced us that the trial court abused its broad discretion in dividing the marital estate as it did.

[12] Affirmed.

Najam, J., and Vaidik, J., concur.