MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

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IN THE COURT OF APPEALS OF INDIANA

Farah Wilson,
Appellant-Petitioner,

v.

William Wilson,
Appellee-Respondent.

February 5, 2024

Court of Appeals Case No. 23A-DC-2063

Appeal from the Vigo Superior Court

The Honorable Lakshmi Y. Reddy, Judge.

Trial Court Cause No. 84D02-2104-DC-002275

Memorandum Decision by Judge Felix
Chief Judge Altice and Judge Bradford concur.

Felix, Judge.

Statement of the Case

[1] Farah Wilson ("Wife") appeals the trial court's Dissolution of Marriage Decree (the "Decree") and Order on Allocation of Assets and Debts, Custody, Child Support and Parenting Time (the "Division Order"). Wife presents five issues for our review, which we consolidate and restate as the following two issues:

1. Whether the trial court clearly erred in determining Father's child support obligation; and
2. Whether the trial court clearly erred in its division of the marital estate.

[2] We affirm.

Facts and Procedural History

[3] On August 5, 2012, Wife and William Wilson ("Husband") married. During the marriage, the parties had two minor children. On April 28, 2021, Wife filed a verified petition for dissolution of the marriage. On July 18, 2023, the trial court held a final hearing on the petition. Two days later, the trial court issued the Decree and the Division Order.

[4] The Decree included the following relevant provisions:

> Except as set forth in the separate Order, Wife shall be declared the owner of any personal property presently in her possession. . . .

> Except as set forth in the separate Order, Husband shall be declared the owner of any personal property presently in his possession. . . .
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> * * *
>
> If either party has a life insurance policy naming their spouse as the beneficiary, the parties are advised to change such beneficiary immediately as this marriage dissolution decree does not modify any beneficiary designations.

Appellant's App. Vol. II at 16–17.

[5] The Order included the following relevant provisions:

> . . . The house is hereby ordered to be sold and the parties shall equally split the net proceeds. . . . While Husband is living in the home with the children, he must maintain the home in good condition, continue paying all household bills including taxes, and maintain homeowner's insurance. . . .
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> . . . The parties must cooperate in ensuring that any reasonable repairs are conducted. If any repairs are recommended in order to be able to sell the home, both parties are equally responsible. If one party refuses to pay for such expenses, the other party shall receive a credit for the money advanced and the Court may consider holding the non-paying party in contempt of court. During the time that Husband and children are living in [the] home, Husband is not entitled to any credit for any routine household expenses paid.
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> . . . Since the parties have such a huge disparity on what they believe the Corvette is worth, it shall be sold and the net proceeds equally divided. Husband is responsible for selling the vehicle[,]

and since he says it is not worth $15,000.00[,] his option is to take it to a dealer to see what he can sell it for or place i[t] on the market for no more than $10,000.00. He must provide Wife with proof of the sale amount and provide Wife with her equal share of proceeds within thirty (30) days of receipt.

* * *

There was a lot of testimony on various personal property. It has been well over two (2) years since Wife filed the Petition for Dissolution of Marriage. She has been in and out of the home on numerous occasions in the past two (2) years. Her contention that she still has clothing, purses, shoes, bags, and jewelry is not credible, especially if they are valuable items. What furniture still exists in the home is more than likely several years old and unlikely worth a high value. Moreover, after two (2) years, as in most divorce cases like this, personal property simply goes missing and both parties allege that the other party has it. Wife contends that Husband is still in possession of a Rolex watch worth nearly $32,000.00 and yet Husband says he is not in possession of the watch. The Court takes the value of personal property as asserted by Wife and assigns each half the value. Whoever is in possession of personal property may retain it as it is impossible after this time has passed to determine exactly where property is located and its value since no appraisals were ever done.

* * *

The parties agreed to a child support obligation of Father paying $257/week. Father has been making voluntary payments without a Court Order. Mother has not been working and there appears to be no reasonable reason why she is not working. The child support is effective as of Friday, July 21, 2023[,] and there shall be no retroactivity and no child support arrearage.

Appellant's App. Vol. II at 18–20.

[6] On August 18, 2023, Wife filed a motion to correct error or in the alternative to reconsider, which, on August 24, 2023, the trial court denied without a hearing and without entering findings or conclusions. This appeal ensued.[1]

Discussion and Decision

[7] In the Division Order and the Decree, the trial court entered findings and conclusions sua sponte. Under these circumstances, we review "issues covered by the findings with a two-tiered standard of review that asks whether the evidence supports the findings, and whether the findings support the judgment." *Steele-Giri v. Steele*, 51 N.E.3d 119, 123 (Ind. 2016) (citing *In re S.D.*, 2 N.E.3d 1283, 1287 (Ind. 2014)). We review any issue not covered by the findings "under the general judgment standard," which means we will affirm "on any legal theory supported by the evidence." *Id.* at 123–24 (citing *S.D.*, 2 N.E.3d at 1287).

[8] We have a well-established preference "for granting latitude and deference to our trial judges in family law matters." *Steele-Giri*, 51 N.E.3d at 124 (quoting *In re Marriage of Richardson*, 622 N.E.2d 178, 178 (Ind. 1993)). As our Supreme Court has explained:

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[1] On January 24, 2024, Wife filed her Motion to Accept Amended Appellant's Brief, requesting we allow her to file an amended brief to correct record citation errors. Contemporaneous with this decision, we deny Wife's motion as moot.

> Appellate deference to the determinations of our trial court judges, especially in domestic relations matters, is warranted because of their unique, direct interactions with the parties face-to-face, often over an extended period of time. Thus enabled to assess credibility and character through both factual testimony and intuitive discernment, our trial judges are in a superior position to ascertain information and apply common sense, particularly in the determination of the best interests of the involved children.

Best v. Best, 941 N.E.2d 499, 502 (Ind. 2011).

[9] Notably, Husband did not file a brief in this case, so we review to determine if Wife "has made a prima facie showing of reversible error." *Ferguson v. State*, 40 N.E.3d 954, 957 (Ind. Ct. App. 2015) (citing *Cox v. State*, 780 N.E.2d 1150, 1162 (Ind. Ct. App. 2002)). "Prima facie means at first sight, on first appearance, or on the face of it." *Posso v. State*, 180 N.E.3d 326, 336 (Ind. Ct. App. 2021) (quoting *Vukovich v. Coleman*, 789 N.E.2d 520, 524 n.4 (Ind. Ct. App. 2003)). As we have previously stated:

> This standard prevents two evils that would otherwise undermine the judicial process. By requiring the appellant to make such a showing, we ensure that the court, not the parties, decides the law. By allowing the appellant to prevail upon simply a prima facie showing, we avoid the improper burden of having to act as advocate for the absent appellee.

Id. (internal quotation marks and citations omitted).

1. The Trial Court Did Not Clearly Err in Determining Child Support

[10] First, Wife contends that the trial court should have ordered Husband to name the Children as the beneficiaries of any life insurance policies he may own. If a court orders a divorcing parent to maintain a life insurance policy on a child's behalf, that order is in the nature of child support. *Capehart v. Capehart*, 705 N.E.2d 533, 538 (Ind. Ct. App. 1999) (citing *Hunter v. Hunter*, 498 N.E.2d 1278, 1292 (Ind. Ct. App. 1986); *Allen v. Allen*, 477 N.E.2d 104, 107 (Ind. Ct. App. 1985)). Here, the trial court did not make any order regarding any life insurance policies the parties may own but instead advised the parties to remove one another as beneficiaries of such policies. Wife does not allege that Husband owns a life insurance policy. While it may be good practice for a divorcing parent to name his or her children as the beneficiaries of his or her life insurance policy for the purposes of child support, *see id.* (citing *Kirk v. Kirk*, 434 N.E.2d 571, 574 (Ind. Ct. App. 1982)), a trial court is not required to order a divorcing parent to do so, *see id.*; Ind. Code § 31-16-6-1; Ind. Child Support Guidelines. Based on the record before us, Wife has not demonstrated the trial court committed reversible error regarding life insurance policy beneficiary designations.

[11] Second, Wife asserts that the trial court should have ordered Father's child support obligation to be retroactive to November 2, 2022. In particular, Wife argues that "the disparity in income and expenses of the parties after their separation on November 2, 2022 and the nominal amounts paid by Husband to Wife in fact did not support the welfare of the children." Appellant's Br. at 19.

However, the trial court specifically stated in the Division Order that "Father has been making voluntary payments without a Court Order. Mother has not been working and there appears to be no reasonable reason why she is not working." Appellant's App. Vol. II at 20. Wife does not challenge these findings, so we take them as true. *See R.M. v. Ind. Dep't of Child Servs.*, 203 N.E.3d 559, 564 (Ind. Ct. App. 2023) (citing *Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992)), *trans. not sought*. Moreover, "[i]t is within the trial court's discretion to retroactively apply a child support award back to the date of filing or any date thereafter." *Carmer v. Carmer*, 45 N.E.3d 512, 518 (Ind. Ct. App. 2015) (citing *Haley v. Haley*, 771 N.E.2d 743, 752 (Ind. Ct. App. 2002)). Because we take the trial court's unchallenged findings as true, Wife has not shown the trial court committed reversible error by not ordering retroactive child support.

2. The Trial Court Did Not Clearly Err in its Division of Marital Property

[12] Wife raises three issues regarding the trial court's division of the marital estate. First, Wife argues that the trial court should have issued an order or orders regarding the sale of the marital residence, including acceptance of certain offers, repairs and maintenance, and the payment for said repairs and maintenance. The Division Order clearly addresses repairs, maintenance, and the payment for said repairs and maintenance. Appellant's App. Vol. II at 18–19. The only issue the Division Order does not expressly address that Wife argues it should have is the acceptance of offers. The trial court was not required to make an order regarding the acceptance of certain offers. Further,

the trial court ordered the parties to hire a realtor to sell the marital residence. Both the realtor and the parties—who will equally split the proceeds of the sale—should be naturally incentivized to sell the home at the best possible price.[2] Therefore, we cannot say that Wife has established that the trial court committed reversible error in failing to address the acceptance of certain offers for the sale of the marital residence.

[13] Wife next contends that the trial court erred by "capping the sale price of the Corvette at $10,000.0[0] where the estimates of the parties differ by up to $15,000.00," especially because "Wife offered in the hearing to purchase the Corvette at Husband's stated sale price of $22,000.00." Appellant's Br. at 15 (citing Tr. Vol. II at 130, 157). In light of the "huge disparity" between Wife's and Husband's valuations of the Corvette, the trial court gave Husband two options for selling the Corvette: (1) "take it to a dealer to see what he can sell it for" or (2) "place [it] on the market for no more than $10,000.00." Appellant's App. Vol. II at 19. Contrary to Wife's assertion, the trial court did not cap the sale price of the Corvette; rather, the trial court merely capped the price at which Husband could market the Corvette if he chose to not "take it to a dealer." *Id.* Based on the trial court's findings and conclusion, we cannot say

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[2] During the course of the home sale, any recalcitrance on the part of either Husband or Wife can be dealt with through post-dissolution proceedings. A dissolution decree that attempts to plan for or prevent each and every potential pitfall from one party's uncooperative behavior would be hundreds of pages long. That kind of detail is not expected nor required from Indiana trial judges. Once problems arise, such as one party rejecting an obviously reasonable purchase price, they can be brought to the trial court for review and possibly contempt, including awarding monetary loss and attorney fees.

that Wife has demonstrated that the trial court committed reversible error regarding disposition for the Corvette.

[14] Finally, Wife asserts that the trial court erred by ordering the parties to retain whatever personal property was in their possession and assigning that personal property equal value. Specifically, Wife argues this decision was erroneous because she claims Husband denied her access to the marital residence to retrieve her personal property. This argument ignores the trial court's specific finding that Wife's "contention that she still has clothing, purses, shoes, bags, and jewelry [in the marital residence] is not credible, especially if they are valuable items." Appellant's App. Vol. II at 19. In other words, Wife essentially asks us to reweigh the evidence and reassess witness credibility, which we cannot do. *See Owen v. State*, 210 N.E.3d 256, 264 (Ind. 2023) (quoting *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018)), *reh'g denied* (Aug. 17, 2023). Consequently, we cannot say that Wife has demonstrated that the trial court committed reversible error concerning division of personal property.

Conclusion

[15] In sum, Wife has failed to make a prima facie showing of reversible error regarding the trial court's decisions concerning life insurance beneficiaries, retroactive child support, the sale of the marital residence, disposition of the Corvette, and disposition of the parties' personal property. We therefore affirm the trial court's decisions on all issues raised.

[16] Affirmed.

Altice, C.J., and Bradford, J., concur.