

## 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

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Bryan Fields,  
*Appellant,*

v.

Loriann Fields,  
*Appellee.*

March 18, 2021

Court of Appeals Case No.  
20A-DC-1896

Appeal from the Morgan Superior  
Court

The Honorable G. Thomas Gray,  
Judge

Trial Court Cause No.  
55D01-1909-DC-1794

**Brown, Judge.**

- [1] Bryan Fields (“Husband”) appeals the trial court’s decree of dissolution and claims the court erred in determining his child support obligation and in its division of the marital property. We affirm.

### ***Facts and Procedural History***

- [2] Husband and Loriann Fields (“Wife”) were married in 2003 and have one minor child. On September 6, 2019, Wife filed a petition for dissolution of marriage. On August 28, 2020, the trial court held an evidentiary hearing. The court admitted numerous exhibits related to the marital property and Husband’s business and earnings.<sup>1</sup> It admitted exhibits related to the appraised value of the marital residence,<sup>2</sup> the unpaid balance of the mortgage,<sup>3</sup> needed repairs to the residence, Wife’s income including her wage statement from her employer and tax returns,<sup>4</sup> Wife’s retirement account,<sup>5</sup> the values of the parties’ vehicles, the parties’ text messages to each other, their bank accounts and debts, and Wife’s extensive attorney fees.
- [3] The court also admitted a number of exhibits related to Husband’s business and earnings including his tax returns, bank statements, records related to his PayPal and Ebay activity, appraisal of equipment, and debt. The parties’

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<sup>1</sup> The record on appeal contains six volumes of exhibits.

<sup>2</sup> An appraisal was presented indicating the marital home had a value of \$175,000.

<sup>3</sup> A November 2019 mortgage statement states the unpaid principal balance was \$99,094.79.

<sup>4</sup> Wife’s wage statement shows she had wages of \$58,696.34 in 2019.

<sup>5</sup> A March 2020 statement shows Wife’s retirement account balance was \$173,499.52.

federal tax return for 2018 states Husband's business had gross receipts of \$188,620, cost of goods sold of \$140,907 which included among other costs \$118,586 of purchases and \$16,266 of other costs, expenses of \$40,547, and net profit of \$7,166. Husband's tax return for 2019 states his business had gross receipts of \$121,061, expenses of \$137,316 which included among other expenses \$6,651 of vehicle expenses, \$3,500 of office expenses, \$5,200 of utilities, and \$95,000 of supplies, and a net loss of \$18,325. A PayPal account information record in 2020 states the business's account was created in 2003, had a total amount received of \$954,411.91, and had amounts received for the previous four months of \$166,626.39, \$17,295, \$3,543.86, and \$2,815.<sup>6</sup> The court admitted monthly statements for Husband's business checking account.<sup>7</sup> The court also admitted a summary from the U.S. Bureau of Labor Statistics as Petitioner's Exhibit No. 19 providing the annual mean wage in the automotive repair and maintenance industry for automotive service technicians and mechanics is \$42,110. The summary also contains an annual mean wage for the occupation by state and shows the annual mean wage in Indiana is \$41,480 to \$43,240. The exhibits contain hundreds of text messages reflecting the

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<sup>6</sup> Wife's counsel noted that the account information showed the account "basically wasn't used until ten years ago," and although the account was created in 2003, "if you look at the transactions, there was nothing going on for seven of those years," and the court replied "I see." Transcript Volume II at 54.

<sup>7</sup> Some of the charges to the account were at grocery stores, gas stations, restaurants, Walmart, Amazon, and a Capital One Auto.

parties' acrimonious relationship and Husband's conduct, including his claim to Wife that he had sold all of his business's equipment.<sup>8</sup>

[4] Further, Husband and Wife testified regarding their relationship, property, and incomes. They stipulated that the increase in Wife's retirement account during the marriage was \$142,029.<sup>9</sup> Wife testified the appraised value of the marital residence was \$175,000, she believed the residence was worth \$145,000, and approximately \$30,000 of repairs were needed including addressing foundation, water line, furnace, air conditioner, and mold issues. She testified that she and Husband never commingled their funds and never had one asset or debt in both of their names. She stated she purchased the marital residence a month before the parties were married. She testified the mortgage was in her name, he would give her money toward the mortgage every month, he was responsible for all the utilities, and she was responsible for groceries. She stated that she listed the value of Husband's business as \$173,345 based on what he had for sale, and that, while Husband shows his income as a negative number, he makes money and that his business account was used to pay for his personal expenses

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<sup>8</sup> See Exhibits Volume III at 209-210 (Husband texting "I loath u," "our family is ruined u c---," "I going to make u regret tearing our family apart"), 227-230 (Husband texting "Morning bitch," "[n]eed to put house up for sale as is," "Oh 1 more thing all this equipment here I sold it all last month . . . for 500 . . . I rather sold it to him for a loss that let u get any," "[i]f we get lawyers I have all the documents to prove that it was signed aug 1," and "also that Harley was sold"); Transcript Volume II at 146 (Husband testified "I was trying to bully her, trying to get her to come back to me" and "how would I make a living without having this equipment in my shop?").

<sup>9</sup> Husband's counsel stated the account had a balance of \$31,496.51 in June 2003 and a balance of \$179,942.82 in September 2019, that the number for the increase during the marriage on Wife's counsel's balance sheet was \$142,029, and that Husband would stipulate that number was correct.

including utilities for the home, the cell phone bill, and checks to her toward the mortgage. She testified that Husband had said his business was his retirement, all of her retirement came from her earnings, and she wanted to keep her retirement. She indicated Husband brought a house into the marriage which was sold in 2017 and the proceeds were about \$19,921.

[5] Husband testified that he started his business in 2003, described his work, and stated that he remachines engines and parts. He explained that he also sold kits online and, when a customer made a purchase, “I get the funds through PayPal. I turn around and buy the inventory for that sale. And then I assemble the heads, I repackage them, and then I ship them to the buyer.” Transcript Volume II at 100. When asked to provide an idea of his costs and what he charges, he testified that he would purchase the kit for \$1,100 and sell it for \$1,650, PayPal took a percentage, he charged “a flat rate for shipping of \$75, so if I ship out west, that comes out of my end of my profit,” and “I’m lucky to get two to three hundred dollars per sale when I do sell something.” *Id.* When asked about obtaining kits or parts “now that we have the Covid virus and these issues,” he responded “now I’m having to buy through another seller, so it’s going into my profit.” *Id.* at 101. Husband testified “I have a tenth grade education and I’ve done this my whole life.” *Id.* He indicated that he did not have formal training, possess any certifications, have training to be an automobile mechanic, or have any certification as an auto technician. When asked what he made weekly, he replied “[r]oughly \$300 after all of my bills are paid.” *Id.* at 107. He also indicated that his business filed for bankruptcy which

was granted in early 2019, at that time his business was “upside down” in the amount of \$35,000, and he obtained a \$9,000 PPP loan during the Covid virus. *Id.* at 108. He indicated he did not have the ability to sell his business for anything close to \$180,000. He also testified that he was diagnosed as bipolar in 2016, that if he were to close his business he would probably apply for disability, and that he did not wish to do that as long as he could make his own way. He also indicated that he sponsors cars in races, his name is on the cars, and he builds the engines at cost.

[6] On September 24, 2020, the court issued a decree of dissolution. The court ordered that Wife have sole legal and physical custody of the minor child. With respect to child support, the court determined Husband’s weekly gross income was \$809.81, found that he “is capable of earning an income as an automotive repair and maintenance employee as shown on” Petitioner’s Exhibit 19, and that his weekly child support obligation was \$114. Appellant’s Appendix Volume II at 53. In dividing the marital property, the court awarded Wife, among other assets, the marital residence, which it valued at \$145,000 and found had a mortgage of \$99,095; her retirement account; certain bank accounts; certain credit card debt and loans; and a 2005 Toyota Highlander.<sup>10</sup> The court awarded Husband his business; a 1999 GMC Truck, 2010 Dodge Challenger, 2002 Harley FXD Superglide, and 2004 trailer; and certain

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<sup>10</sup> The decree did not specify values for the vehicles or Wife’s retirement account.

furniture, tools, and equipment at the marital residence. With respect to Husband's business, the court found:

[Husband] owns a business named CPM Engines, LLC, formally known as Indy Performance Parts, LLC. There is dispute as to the value of the business. [Husband] maintains that the business is worth nothing. However, [Wife] values the business at \$180,545. There are two bases to [Wife's] value of [Husband's] business [sic]: Firstly, [Husband] has an eBay page with engines and engine parts list at over \$150,695. See Petitioner's Exhibits No 15, 16, and 17. Secondly, in Petitioner's Exhibit "2" page 220, [Husband] states to [Wife] that he sold everything for \$500. [Husband] shall have the business as his sole and separate property. Petitioner's exhibit 14 page 14 of 65, shows that in August 2020, [Husband] brought in \$166,626.95. [Husband] provided no business records for his business other than those obtained by [Wife's] counsel.

*Id.* at 57. The court stated it was deviating from an equal division of the assets which it found was fair and reasonable based upon the statutory factors and was supported by the evidence. It also stated the division was not equal as Wife has incurred over \$30,000 in attorney fees due to Husband's conduct.

### ***Discussion***

[7] The Indiana Supreme Court has expressed a "preference for granting latitude and deference to our trial judges in family law matters." *In re Marriage of Richardson*, 622 N.E.2d 178, 178 (Ind. 1993). Appellate deference to the determinations of trial court judges, especially in domestic relations matters, is warranted because of their unique, direct interactions with the parties face-to-face. *Best v. Best*, 941 N.E.2d 499, 502 (Ind. 2011).

- [8] When a trial court has made findings of fact, we apply the following two-step standard of review: whether the evidence supports the findings of fact, and whether the findings of fact support the conclusions. *Yanoff v. Muncy*, 688 N.E.2d 1259, 1262 (Ind. 1997). Findings will be set aside if they are clearly erroneous. *Id.* Findings are clearly erroneous only when the record contains no facts to support them either directly or by inference. *Id.* To determine that a finding or conclusion is clearly erroneous, our review of the evidence must leave us with the firm conviction that a mistake has been made. *Id.*
- [9] Husband claims the trial court erred in determining his child support obligation and in its division of the marital property. With respect to child support, he argues he is not an automotive service technician or mechanic and there was no evidence of prevailing job opportunities and earnings level in his community to support the determination of his weekly gross income. With respect to the marital property, he asserts that the court failed to ascribe a value to the vehicles, Wife's retirement, and his business and that the record does not support the court's deviation from an equal division of the marital property.
- [10] A trial court's calculation of child support is presumptively valid, and we reverse a decision regarding child support only if it is clearly erroneous or contrary to law. *Saalfrank v. Saalfrank*, 899 N.E.2d 671, 674 (Ind. Ct. App. 2008) (citing *Young v. Young*, 891 N.E.2d 1045, 1047 (Ind. 2008)). We do not reweigh the evidence and consider only the evidence most favorable to the judgment. *Id.* Ind. Child Support Guideline 3A.1 provides that weekly gross income includes actual weekly gross income and potential income and includes



income from, among other sources, wages, commissions, bonuses, partnership distributions, dividends, and capital gains. Ind. Child Support Guideline 3A.2 states that weekly gross income from self-employment or operation of a business is defined as gross receipts minus ordinary and necessary expenses. It provides “[i]n general, these types of income and expenses from self-employment or operation of a business should be carefully reviewed to restrict the deductions to reasonable out-of-pocket expenditures necessary to produce income” and weekly gross income from self-employment may differ from a determination of business income for tax purposes. The Commentary to Guideline 3A states that calculating weekly gross income for the self-employed calls for careful review of expenses and that the principle involved is that actual expenses are deducted and benefits that reduce living expenses such as company cars or reimbursed meals should be included in whole or in part. Ind. Child Support Guideline 3A.3 provides that a determination of potential income shall be made by determining employment potential and probable earnings level based on the obligor’s employment and earnings history, occupational qualifications, educational attainment, literacy, age, health, criminal record or other employment barriers, prevailing job opportunities, and earnings levels in the community. The Commentary states a great deal of discretion will have to be used in this determination.

[11] The division of marital property is within the sound discretion of the trial court. *Love v. Love*, 10 N.E.3d 1005, 1012 (Ind. Ct. App. 2014). We consider only the evidence most favorable to the court’s disposition of the property. *Id.* Although

the facts and reasonable inferences might allow for a different conclusion, we will not substitute our judgment for that of the trial court. *Id.* The court must divide the marital property in a just and reasonable manner, and an equal division is presumed just and reasonable. *McGrath v. McGrath*, 948 N.E.2d 1185, 1187-1188 (Ind. Ct. App. 2011) (citing Ind. Code § 31-15-7-5). The presumption may be rebutted by evidence of certain factors including the contribution of each spouse to the acquisition; the extent to which the property was acquired before the marriage or through inheritance or gift; the economic circumstances of each spouse at the time of the disposition; the conduct of the parties during the marriage as related to the disposition or dissipation of their property; and the earnings or earning ability of the parties. *See* Ind. Code § 31-15-7-5. The party challenging the court's division must overcome a strong presumption that it considered and complied with the applicable statute. *McGrath*, 948 N.E.2d at 1188. This presumption is one of the strongest presumptions applicable to our consideration on appeal. *Id.* The disposition of the marital property is to be considered as a whole, not item by item. *Id.* We review the valuation of property for an abuse of discretion, which does not occur if the valuation is within the range of values supported by the evidence. *Goossens v. Goossens*, 829 N.E.2d 36, 38 (Ind. Ct. App. 2005).

[12] Here, with respect to the trial court's determination that Husband's weekly gross income is \$809.81 for purposes of calculating his child support obligation, the court heard extensive testimony regarding his work and business activity. The court referred to evidence showing the annual mean wage in the

automotive repair and maintenance industry for automotive service technicians and mechanics is \$42,110 and the annual mean wage for the occupation in Indiana is \$41,480 to \$43,240. While Husband testified he did not have formal training, the evidence establishes that he has performed his work and operated his business for many years, and Husband described his work activities in detail. Further, the court was able to consider the extensive evidence regarding Husband's earnings and ability to work, the financial information presented including his tax returns, PayPal records, and bank statements, and the extent to which the expenditures reflected in the financial documents constituted expenses incurred in the operation of his business and the extent to which they reduced his personal living expenses. Our review of the evidence as set forth above and in the record does not leave us with the firm conviction that a mistake has been made, and we do not find Husband's arguments that the court erred in determining his child support obligation to be persuasive.

[13] As for the marital property, the record reveals Husband and Wife presented evidence regarding the value of their assets, their respective contributions to the property, the extent to which they acquired assets prior to their marriage, their conduct, and their economic circumstances and earnings or earning abilities, and the trial court distributed the marital assets and debts in a detailed manner. Although the court did not assign a value to every asset, we observe that evidence of the value of Wife's retirement contributions, the parties' vehicles, and Husband's business was before the court. Husband and Wife testified at length as to the values of the various assets and their contributions, they were

thoroughly cross-examined and questioned by the court, and the court was able to assess their credibility and weigh their testimony. The court was also able to consider the parties' numerous exhibits related to the property and their division. Husband testified in detail regarding his business and its operations, and the court was able to examine the many exhibits related to the business's finances including the business's bank statements and PayPal records and Husband's tax returns. The parties stipulated as to the increase in the value of Wife's retirement during the marriage, and the court heard evidence related to the value and condition of the marital residence and the mortgage.

[14] It is apparent from our review of the record that the court carefully considered the parties' evidence and testimony, including that related to the source of the parties' assets and their future use, in its division of the marital property and in its distribution of Husband's business to him and Wife's retirement to her. We consider only the evidence most favorable to the court's disposition, and we cannot say Husband has overcome the strong presumption that the court considered and complied with the applicable statute. Based upon our review of the record, we cannot say the trial court did not reach a just and reasonable conclusion or that reversal is warranted. *See Luedke v. Luedke*, 487 N.E.2d 133, 135 (Ind. 1985) (observing the dissolution decree distributed property to the parties without making findings as to the value of each particular item, differing values were given by the parties for many items, the trial court heard evidence for eight days during which the parties testified to their own values of items, and it was apparent the trial court considered the source of the items and their

future use and painstakingly distributed the assets, and holding, without detailing each and every item distributed and upon examining the entire record, that the trial court reached its conclusion in a fair and reasonable manner and that reversal was not merited); *Dean v. Dean*, 439 N.E.2d 1378, 1383 (Ind. Ct. App. 1982) (“Indiana case law does not require that a trial court establish the value of each marital asset before distribution. . . . ‘The specific value of each marital asset need not be established so long as the trial court is sufficiently apprised of the approximate[] gross value of the marital estate.’”) (quoting *Libunao v. Libunao*, 180 Ind. App. 242, 245, 388 N.E.2d 574, 576 (1979)).

[15] For the foregoing reasons, we affirm the judgment of the trial court.

[16] Affirmed.

Vaidik, J., and Pyle, J., concur.